HANDBOOK

on

Study of Indian Wardship

Price 15 cents

Committee on

Wardship and Indian Participation in American Life

Room 69, 297 Fourth Avenue, New York City

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FOREWORD

THIS BOOKLET is not propaganda. It does not represent anyone's opinion or prejudice. It is a statement of facts bearing upon the status of the American Indian with particular reference to the peculiar relationships that American Indians have to the United States Government.

It is the desire of the Committee publishing this statement to acquaint friends of the Indians with the technical aspects of what is generally known as "wardship," the peculiar status of citizenship in which American Indians live.

The objective of the Committee is to free the American Indians from this undemocratic status and to make possible their full, free citizenship and participation in American life, which do not now prevail. The Committee believes that the present time offers a supreme opportunity to deal with this question. In this moment in which we are concerned as a nation to protect the democratic process against those nations and individuals who would destroy it, in a moment in which we are proclaiming the superiority and value of democracy as a political force in the world, in a moment in which we are ringing the changes on the four freedoms—Freedom from Want, Freedom from Fear, Freedom of Speech, and Freedom of Religion—we do well to examine those systems and forces within our national life that are a contradiction to the democracy that we profess.

It is the hope of the Committee that this booklet will be widely read by those who are concerned with the welfare of the American Indian, that it will be used by missionaries and teachers among Indians to educate the Indian as to his status, and that in these several ways the study will lay down a foundation for the more complete citizenship of the American Indian.

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INDIAN WARDSHIP

A DISCUSSION of Indian wardship should properly begin with a definition of both terms. At once we strike the fundamental difficulty in dealing with all Indian matters. Courts and Congress have alike failed to give any definition of the term Indian. And the many decisions and enactments concerning wardship, or "a condition analagous" to wardship, are by no means based on a single definite idea of what that condition may be.

WHAT IS AN INDIAN?

Of course the obvious answer to the question, "What is an Indian?" is: "A person of aboriginal American blood." But how large or small a degree of Indian blood is necessary to mark that person as an Indian in either a popular or a legal sense? There are hundreds, perhaps even thousands who, like the widow of President Woodrow Wilson, are descendants of John Rolfe and Pocahontas. Mrs. Wilson's descent is in the tenth generation, giving her the proportion of Indian blood of one part in one thousand and twenty-four. To the casual glance, this would scarcely seem sufficient to justify referring to her as an Indian; yet "Indians" with no greater proportion of the racial inheritance have been enrolled and have received benefits as members of certain tribes.

Where Indian tribes have been given their land in individual allotments, or where there are distributions of funds to be made under treaty provisions, there are in existence tribal "rolls" made at the time of such allotment or distribution, and kept up to date by the recording of births and deaths. These rolls often include not only many whose degree of Indian blood is exceedingly small, but many others who have no Indian blood whatever. "Intermarried white" is the designation, for example, for those men and women of entirely non-Indian blood who have married into the Five Civilized Tribes, and who received allotments of land at the same time as those of a real blood relationship to the race. Another large group of non-Indians enrolled with these Five Tribes consisted of their slaves, and the descendants of the slaves, freed by the Cherokees, Creeks, Choctaws, Chickasaws and Seminoles after the close of the War between the States in which Indians had been engaged on both sides of the conflict.

Adoption by a tribe has not been uncommon, in the earlier

days of inter-tribal warfare. This is not the Hollywoodian ceremony or its "Great Northern" equivalent of the present day, but a bona fide acceptance of an Indian or white captive as a member of the captor tribe. An interesting example of the working out of this adoption is in the case of the member of the Crow Tribe known as the Reverend John Frost. His father was an Englishman who had been a surgeon in the United States Army; his mother united the bloods of her Piegan-Blackfoot mother with that of her Mexican paternal forebears. Orphaned when Sioux raiders murdered his father, the boy grew up as a Crow and became a leader in the tribe, though he shared no portion of their blood whatever, and only the smallest proportion of any blood of the Indians of the United States. Yet officially and legally, he was a Crow, chiefly by reason of his residence on the Crow Reservation.

The lean years of the '30s have brought back to Indian reservations and relief benefits many who had long lived apart from any tribal connections. In the white towns and cities where they had lived self-supporting lives after the fashion of their fellow-Americans, many had never been known as Indians. But in hard times, the lure of untaxed lands and government "jobs" or outright relief proved very attractive. "Depression Indians" the Sioux call those who have thus returned to claim the benefits of their racial connection.

It has long been obvious that there should be some official and legal definition of what is meant by the word "Indian," for governmental purposes. Enough has been said to show how the matter of making any such definition has been complicated by previous rolls and laws. Nevertheless, there has grown up, and has on occasions been confirmed by laws in individual cases, the idea that an individual should possess at least a fourth Indian blood in order to claim benefits as an Indian. From time to time, in years past, bills have been introduced in Congress with the intent of defining the word Indian; but though backed by many whose interest in Indian welfare was of long standing, such bills have always failed of passage. In addition to the obvious opposition arising from a Bureau, which like all bureaus, views with alarm any diminution of its powers and scope, there were also the difficulties arising from previous rolls, laws and treaties, under which many recipients of benefits are legally but by no means biologically Indian.[1]

In Canada, the term Indian apparently applies only to those of Indian descent residing upon a definite reserve, or in Indian country. When a member of the tribe marries an outsider, that

[1] See EXHIBIT A—*In Fulfillment of Treaties;* also EXHIBIT B—*Tribal Funds.*

fact is expected to imply the removal of the couple from the reservation and from tribal allegiance. Thus the white man who marries an Indian woman does not become an "Intermarried white," but his wife on her part, might properly be considered as an "Intermarried Indian" who had attained the status of a white.[2]

In Canada, also, an Indian who has applied for enfranchisement may be released from the "distinction" which sets him apart as an Indian and receive his share of the tribal assets.[3]

In Mexico, where all but a possible 15 per cent of the population have some portion, large or small, of Indian blood, the term "Indian" is used to indicate a way of life rather than any racial division. Those who live in the simpler fashion, in town or country, are "Indios." Yet this is by no means the primitive life to which Indians are popularly supposed to cling, but Indian life and culture modified by three or four centuries of contact with European religious, social and cultural ideals.[4]

Much has been talked lately of the kinship in interest of the Indians of the United States with those below the Rio Grande, in Mexico, in Central America, and in South America. However, the largest estimate of Indians in the United States shows them to be the smallest of fractional minorities in this country, while those of Indian blood in most of the nations below the Rio Grande are an overwhelming majority—literally the nations themselves. There can therefore be no valid comparison in their situation.

2 See "Administration of Indian Affairs in Canada" by F. H. Ahhott—p. 43.

3 INDIAN AFFAIRS—PRIVY COUNCIL OF CANADA: "The Board recommends that Angus Garlow, a Six Nations Indian whose reserve is located in the Counties of Brant and Haldimand, in the Province of Ontario, who has applied for enfranchisement and who has complied with the terms and provisions of Section 122A as added to the Indian Act, Chapter 81, R. S. C. 1906, hy Section 6 of Chapter 26, 8-9 Geo. V., he declared enfranchised and that from the date hereof the provisions of the Indian Act or of any other Act making any distinction hetween the legal rights, privileges, disahilities and liahilities of Indians and those of His Majesty's other subjects shall cease to apply to the said Angus Garlow and that he shall no longer he deemed an Indian within the meaning of laws relating to Indians.

"The Board further recommends that authority be given for the payment to the said Angus Garlow of the sum of $155.27 from Six Nations funds, heing his share of the funds in this case, including the principal of the annuities at the credit of the trihe aforesaid to which he helongs."

(Signed) Robert Lee Br————
Clerk of the Privy Council

Certified Extract from the Minutes of a meeting of the Treasury Board, held on the 7th day of June, 1921; approved hy his Excellency, the Governor General, in Council, on the 15th day of June, 1921.

4 In Mexico, Peru, or Brazil, an Indian is a person who lives as an Indian, without regard to alleged purity of ancestry. Similarly, a person of pure Indian descent who has ahandoned Indian hehavior therehy hecomes, in social and political respects, white. Frank Lorimer in *The Changing Indian,* edited hy Oliver La Farge, from a symposium arranged hy the American Association of Indian Affairs, Inc., University of Oklahoma Press, 1942; p. 12.

Mexican Indians can not really be wards of their government; actually, or potentially, they are the government itself.[5]

Dr. Ray A. Brown, of the University of Wisconsin, in making recommendations for legislation based on his study of Indian Law[6] offered the following definition of an Indian: "The word Indian shall mean a restricted Indian ward of the United States still subject to the Acts of Congress specifically pertaining to Indians and to the rules and regulations made in pursuance thereof."

This is perhaps less a definition than a begging of the question, which is generally true of other definitions which have been proposed from time to time. What Indians are still subject to the acts of Congress pertaining to Indians? What ones are still "restricted"? In other words, the definition merely poses the question—

WHAT IS WARDSHIP?

Wardship in the case of a non-Indian individual is a fairly definite state circumscribed by well-understood rules. It implies some disability in the ward—minority, or physical or mental incapacity. It is a relation between two individuals. The guardian of the property or person of a ward is held strictly accountable to the courts as well as to the ward himself. He is supposed to exercise more than the usual degree of care in safeguarding the ward's interests, both personal and financial.

Chief Justice John Marshall, to whom we owe the first authoritative pronouncement on this subject in 1831 considered that the relation between the United States and an Indian tribe bore a resemblance to that between a guardian and his ward. He did not by any means identify the two relationships as the same. In Cherokee v. Georgia[7] he decided that an Indian Tribe could not as a "foreign nation" bring suit against a State of the Union. The tribes were instead to be regarded as "domestic dependent nations," existing "in a state of pupilage" until their lands were ceded to the United States.

"Their relation to the United States," he went on, "resembles that of a ward to its guardian. They look to our government for protection; rely upon its kindness and its power; appeal to it for

5 The late Dr. Moises Saenz, sometime Director of Education in Mexico, in a lecture to Indian Service teachers at Albuquerque, N. M., Dec., 1933, spoke in part, as follows: "There is pride in being Indian, but no discrimination on behalf of the Indian, or the white. He (the Indian) is considered a neglected individual. But there is no movement to keep him Indian, rather a going to the Indian to bring him into the national family, to loosen him into the stream of national life." From lecture notes on *Indian Education* taken by Helen L. Kinnick.

6 Hearings on H. R. 7902, 73rd Cong. Second Session—p. 346.

7 5 Pet., I, 1831.

relief to their wants; and address the President as their father."

Obviously this theory of a quasi-guardianship was meant for the Tribe, not the individual Indian. A century ago, when this decision was written, neither the United States nor any state or local form of government had assumed to exercise jurisdiction over the internal affairs of a tribe. The United States dealt with a group of Indians as if it were a governmental unit. Frequently it had to create chieftainships and name officials in order that the group might present the appearance of a political entity.[8]

The dealing with Indians as individuals came at a much later date. The conception of wardship changed and developed with the years. Felix Cohen, in the recently published *Handbook of Federal Indian Law*[9] points out ten different types of interpretation of the meaning of "Wardship." Some of these are for the tribe; some apply to the Indian as an individual; some indicate restrictions; some grow out of benefactions. All, however, deal with the relation of the Federal Government to the Indian.

"The failure to distinguish among these different senses," writes Mr. Cohen, "is responsible for a considerable amount of confusion. Today a careful draftsman of statutes will not use the term 'ward Indian' or, if he uses the term at all, will expressly define it for the purposes of the statute."

The official attitude of the Indian Bureau at the present time is that the words "Ward" and "Wardship" no longer have any real significance.[10] Nevertheless, a condition exists, under which those regarded as Indians are subject to certain restrictions and exemptions; and the same letter goes on to state: "The opinion of most of the legal authorities is that no Indian may now achieve complete 'emancipation' without an Act of Congress."

From all this it becomes apparent that an exact definition of wardship is more than difficult. Perhaps there can be no closer approximation than to say: *Wardship is that peculiar legal situation of those designated as Indians, whereby they are dealt with by the Federal Government in matters in which the average American citizen is dealt with by State or local governments; or whereby the Federal services given to all citizens are given to them under a special racial designation.*

This legal situation did not come about at a single stroke.

8 Dr. M. W. Stirling, Chief of the Bureau of American Ethnology, in discussing "Some Misconceptions about the American Indian" states: "The idea of a legal executive head (entirely foreign to the Indians) was fostered by the Colonists because of the aid it gave in the transaction of business, particularly in regard to the transfer of land . . . even the so-called chief among many tribes was recognized as a leader only because of his personal exploits . . . such a leader had no actual authority." *Indians at Work*—Dec. 15, 1936—pp. 31-32.

9 Pub. 1942, pp. 169-173.

10 Indian Office letter of August 5, 1941, to Mrs. Elaine Goodale Eastman.

Before discussing its various phases and their effects upon the Indian, a brief historical summary is necessary.

GROWTH OF INDIAN WARDSHIP

The theory that the Indian possessed only the right of occupancy to the land is our inheritance from colonial times. With some modifications, French, Spanish, and English explorers and colonists brought the same idea from Europe to these shores. The final power and disposition of these lands, by virtue of exploration, conquest, settlement, or a combination of all three must lie with the European sovereign. The Indian tribe might occupy the lands and use them; when they ceased to do so, the lands became the property of the Crown. Only to the Crown, and not to individual settlers, could the tribes sell their possessory rights.[11]

For the purpose of such land purchase it became the custom of the colonial governments to select certain Indians whom they considered influential among the Indian communities, and to designate these individuals as "chiefs" for purposes of treaty making. Political organization was at a minimum in most Indian groups, and the "chiefs" who led parties in forays upon other tribes were not necessarily regarded as counsellors at home. Nevertheless, since some authority was necessary, it must be improvised where it could not be discovered. The "kings" and "emperors" of early chronicles serve only to emphasize the white man's complete lack of understanding of the red man's situation—a mental blindness which is perpetuated to this day in the designation of any girl of part-Indian extraction as an "Indian princess."

Through the colonial period, in the early days of the Republic, and until approximately the middle of the last century, governmental dealings were with tribal groups rather than with Indians as individuals. "Indians not taxed" as mentioned in the Constitution[12] were those groups occupying lands within organized States, but not responsible to State laws. The power of Congress "to regulate commerce" was with "the Indian Tribe."[13] When Indians individualized themselves by leaving their tribes, they merged into the white communities and their racial designation was largely forgotten.

The ward relationship of these Indian groups to the national government had its most significant statement and definition from Chief Justice Marshall in the case cited above (Cherokee Nation v. Georgia) and in another case growing out of the same effort of the State of Georgia to extend its jurisdiction, not so much

11 Fletcher v. Peck, 6 Cr. 87.
12 Const. of U. S., Art. I, Sec. 2.
13 Const. of U. S., Art. I, Sec. 8.

to the Cherokees themselves, as to white men who had come to reside among them, who were required to take an oath of obedience to the State. The refusal of Samuel A. Worcester, a New England missionary, to take this oath, led to the case on Worcester v. Georgia,[14] in which the decision was rendered: "The Cherokee Nation is a distinct community, occupying its own territory, . . . in which the laws of Georgia can have no force . . . The whole intercourse between the United States and this nation is, by our Constitution and laws, vested in the Government of the United States."

For nearly a half century after this decision that intercourse went on in the form of treaties. These treaties were chiefly matters of land cessions and purchase. They brought in some cases, as that of the Five Civilized Tribes of the Southeastern country, the removal of whole tribes to a new location. In many others, there were sales to the government of possessory rights to certain portions of the land over which a tribe had been accustomed to roam while the occupancy of a designated portion remained to the tribe. Thus the "Reservation" system grew up—lands *reserved* from sale for Indian use. As the treaties carried payments to the Indian sellers, payments in money, but often in goods, "agents" were appointed to distribute such payments and carry out other treaty provisions.

The individualization of Indian lands began, in a few special instances, a quarter century before the passage of the General Allotment Act, known as the Dawes Act, in 1887.[15] Such instances as those of the Indians of the Isabella Reserve in Michigan who, receiving individual allotments of land in the 1850's, immediately sold them and became squatters in the State, led to the provision that allotments should be held in trust by the government for a period of 25 years, at the end of which time, a patent in fee would be issued.[16]

While the actual situation of the land during these 25 years was that of trusteeship rather than guardianship, still the term "ward" began to be applied to Indians whose lands were so held. And the assumption began to grow that, trained in industry and self-support, the allottee would finally receive his patent in fee and become a member of the normal community life, discharged of all peculiar legal relationship to the nation, based on racial divisions.

14 6 Peters 575.

15 24 Stat. 388.

16 "Some of the Michigan Indians voted for the first time in the election of 1856, and in the following presidential election one, Blackbird, was severely censured by the Government agent because he voted "the black Republican ticket."—G. E. E. Lindquist in the *Southern Workman*, April, 1928.

Many things occurred to defeat this expectation. A court decision eliminating the educative effect of taxpaying,[17] and another permitting the sale of liquor to citizen Indians were among the results which had not been forecast.[18] The speedy growth of the system of leasing individual lands to white men too frequently created in a tribe, not a generation of farmers, but a body of landlords, living on the rental of estates administered without cost or trouble to the Indian owners.[19] And when the period of restrictions came to an end and patents in fee were issued, too often—in fact, in the majority of cases—this was not the prelude to individual ownership but to an immediate sale. The period of tutelage had not impressed upon the Indian any idea that the land was to be a capital asset. It was to be traded off for the desire of the moment . . . an automobile, or what you will?

Secretary of the Interior Franklin K. Lane in 1917 inaugurated a new policy in Indian Affairs.[20] New policies in Indian Affairs have usually occurred every few years, but this was a change even more drastic than usual. Under the Burke Act, passed a decade before, [21] it had been provided first, that citizenship should not thereafter be conferred upon Indians until the completion of the trust period and the issuance of a patent in fee to the land; and second, that such a patent could be issued in advance of the twenty-five years if the Secretary decided that the allottee was competent to manage his own affairs. The Lane policy looked to the speeding up of the educative process and the immediate issuance of fee patents to Indians who were able bodied and practically educated and so, presumably, capable of self-support upon the land. To this end competency boards were created on the various reservations and a great number of patents in fee issued. Too often the result was either an immediate sale, or a mortgage with subsequent forfeiture.[22]

Thus, over a period of years, came about the alienation which is frequently characterized as an example of white rapacity, cruelty, and injustice. This characterization of the deplored "loss" of Indian lands is an oversimplified explanation of a really intricate situation. It should be borne in mind also that the reservation system had already brought about segregation, and where there is segregation

17 U. S. v. Rickart, 188 U. S. 432.

18 Heff Case 197 U. S. 488.

19 Leasing of land seems to have gotten its impetus from the Act of Feb. 21, 1891 (26 Stat. 794) amending Section I of the Dawes Act, as well as subsequent Acts and Bureau regulations. See EXHIBIT H: *Evils of Leasing System.*

20 See EXHIBIT C: *Declaration of Policy.*

21 May, 1906, 34 Stat. 182.

22 Previous Acts, for example, that of May 27, 1902, authorized the sale of inherited land while the Act of March 1, 1909. permitted the sale of an allottee's land; the act of June 25, 1910, provided for making a will.

one invariably finds exploitation. For along with the sale of land to outsiders went the inevitable processes of life and death, and the Indian lands allotted so freely in the last years of the century, came more and more into possession of the heirs of the original owners with the inevitable inequalities whereby one might be heir to many, and many, heirs to only one.

This process whereby more and more Indians were released from the restrictions of wardship went on until 1934, when a law was passed which later was designated as the "Reorganization Act."[23]

This legislation forbade any further allotment of Indian lands, or the issuance of patents in fee on lands held in trust. It contemplated a return from the individualization system to the tribalism of former years, or what the tribalism of former years was assumed to be. Land purchase for Indians whose lands had been sold, establishment of purely Indian communities and corporations, though the quantum of Indian blood in those participating might be extremely small, together with the creation of large payrolls from depression relief funds, resulted in the addition to Indian reservation rolls of a vast number of names. (See EXHIBIT D: *Some Misleading Population Figures*) Everyone of any previous connection with Indian tribes, indeed many whose grandparents might have severed such a connection, was a potential "Client" for relief or rehabilitation or what not.

While the tendency at present is to reject the word "wardship," the fact of dependency upon the Federal Government is stressed as

23 48 Stat. 986. Introduced in the Congress in February, 1934, and passed four and a half months later in a much altered form, this piece of legislation was first given the names of the chairmen of the Senate and House Indian Committees, and was known as the Wheeler-Howard bill. Representative Edgar Howard of Nebraska was then completing his last term in Congress. Senator Burton K. Wheeler of Montana introduced the bill by request, and in later sessions introduced bills to alter or repeal it. Originally the plan set forth a complete segregation of Indians from white contact, the establishment of Indian communities with rights to Indian land and property far more inclusive than Anglo Saxon law has ever given the State. Many of the provisions of this 48 page projection were definitely contrary to the Constitution of the United States.

There was a great deal of public protest, the larger share of which came from the Indians themselves. The act as finally passed was perhaps one-fourth as large as the original. It provided among other things (1) that Indian tribes should vote whether to accept the new plan of organization; (2) that on voting affirmatively they were then to adopt a tribal constitution and receive a charter, and (3) that following this, they should incorporate to do business as a cooperative body, with the right to borrow money for carrying on such tribal business as might be contemplated. Every detail of every step of this involved procedure must have the formal approval of the Secretary of the Interior.

This complicated double organization was represented to be a return to the old autonomy and communal economy of the tribe, quite irrespective of the fact that it bore no resemblance to actual self-government or to pre-Columbian tribal systems, which varied extremely from one tribe to another, ranging from the almost anarchic to the intensest hierarchial forms, but in no case approaching the "democracy" now declared to be the goal. From being known as the Wheeler-Howard Act, this law was successively known as the Self-government Act and the Organization Act. The name now in use is the Reorganization Act, and a schedule of its acceptance or rejection by various tribes, and the organizations initiated under it, has been appended. (See EXHIBIT F)

never before, and today the Indian Bureau works on the theory that the Indian—still undefined—is not only the subject of government supervision in most of the aspects of life, but that such supervision must persist from generation to generation with practically no opportunity for his children or his children's children to emerge into normal American living. (See EXHIBIT E: *Reassumption of Wardship*)

The future effects of this wardlike relationship are thus presumed to be permanent and inescapable. That its present effects reach to all departments of Indian life, is unquestioned. What some of these effects may be, demands our next consideration.

WARDSHIP AND CITIZENSHIP

To many it is a surprise to learn that Indians are without exception citizens of the United States, if born within the national borders. The greater number of them have been citizens for many years.

This status was attained in several ways—by treaty with other nations, by treaty with the Indians themselves, and by enactments of law. It was granted sometimes to groups or tribes, sometimes to individual Indians. But by far the greater number of citizens were created by the operation of the General Allotment Act or Dawes Act (cited above). Indians receiving allotments from the time of the passage of that Act until that of the Burke Act in 1906 (also previously cited) became citizens upon the issuance of their trust patents. This same Act conferred citizenship upon Indians who had voluntarily taken up their residence away from the tribe and "adopted the habits of civilized life."

Allotment proceeded so rapidly under the Dawes Act that in his message to Congress on December 3, 1901, President Theodore Roosevelt reported that "60,000 Indians have already become citizens of the United States."[24] The children of these new citizens of course became citizens at birth.

The Burke Act provided that citizenship should be postponed until the end of the trust period and the issuance of the patent in fee. The creation of citizens was thus slowed up and at the time of the First World War there were still many tribes which were held exempt from the draft because of their non-citizenship. Many of these enlisted voluntarily, and[25] it was made possible for many of these, if they desired, to acquire citizenship.

Thus, in one way and another, the majority of American Indians were already citizens of the United States before 1924. *The*

24 Cong. Rec., 57th Cong., I Sess., p. 90.
25 By an Act of Nov. 6, 1919.

Handbook of Federal Indian Law (p. 153) estimates the proportion as "approximately two-thirds." The remaining third were swept into citizenship by the Act of June 2, 1924,[26] which provides:

"That all non-citizen Indians, born within the territorial limits of the United States, be, and they are hereby declared to be, citizens of the United States."

But the citizenship thus granted was not incompatible with continued guardianship and trusteeship on the part of the Federal Government through the Interior Department or the Bureau of Indian Affairs. Indeed, this very law went on to declare, as many another law concerning the Indian had done:

"Provided, that the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property."

Citizen or not, he would find the trust remaining upon lands held for him; his name upon a tribal roll would still entitle him to share in any distribution of funds or land which other members of the tribe might receive.

In fact, the courts had already decided that the status of wardship was not incompatible with that of citizenship. While the decision in the matter of Heff (197 U.S. 48) had appeared to sustain the view that a man allotted under the Dawes Act and thereby becoming a citizen, had a citizen's right to enter a saloon and purchase intoxicants, this decision had been superseded, in 1916, by that rendered in the case of U. S. v. Nice[27] in which the court said:

"Citizenship is not incompatible with tribal existence or continued guardianship and so may be conferred without completely emancipating the Indians or placing them beyond the reach of congressional regulations adopted for their protection."

In this and in other decisions the interpretation has been well established, that citizens can be subject to restrictions, exemptions, and special regulations based on the possession of Indian blood or the identification with some group designated as "Indian."

CITIZENSHIP AND SUFFRAGE

It is also a surprise to many Americans to realize that the possession of citizenship does not in itself imply the right to vote. Yet a moment's consideration of the subject should remind one that minors, though indubitably citizens, may not vote until a certain age is attained; that women, just as unquestionably citizens, did not possess the right to vote in most States until less than a quarter of a century ago; and that even male citizens of voting

26 43 Stat. 253.
27 241 U. S. 591.

age may easily lose the right of suffrage temporarily, by removing from one place of voting to another on the eve of an election.

In other words, each State has its own qualifications for suffrage, which must be complied with by would-be voters within its borders. In most of the States, Indian citizens are as a rule able to become voters in the same manner as white citizens. A few States, however, still retain laws which result in the disqualification of some if not all of their Indian citizens.

The constitutions of Idaho, New Mexico, and Washington forbid the extension of the suffrage to "Indians not taxed." All three of these constitutions, of course, were adopted at a time when such Indians were not citizens of the United States. In the case of the State of Washington, there has twice been a ruling by the State Attorney General that this refusal of the suffrage is now out of alignment with the Federal Constitution,[28] and it may be assumed that, acting on such ruling, election boards do not forbid the vote to Indians who apply on election day. In South Dakota a similar law has long been without enforcement.[29] [30]

In Arizona, the exclusion of a large portion of its Indian population from voting is based on a State law denying the vote to "persons under guardianship." This provision has been upheld in the courts.[31]

On January 26, 1938, the Solicitor of the Department of the Interior issued an opinion (M.29596) in which he stated that in his judgment the refusal of the franchise by any State to citizen Indians was unconstitutional. He cited the adverse decisions of the Supreme Court on two "grandfather" cases, in the matter of Negro suffrage, as ground for believing a discrimination against "Indians not taxed" was a racial discrimination and thus incompatible with the fifteenth amendment to the Constitution. He failed to comment on the fact that in other instances similar clauses of somewhat different wording have been held constitutional.

The matter could be adjudicated by bringing a suit in the name of some Indian of Arizona, a Navajo for example, to whom suffrage is refused, and carrying the case up to the Supreme Court on a question of constitutionality. Apparently the Department of the Interior has so far taken no step thus to validate and confirm the opinion of the Solicitor. This remains, therefore, a matter on which the final authority has not been invoked.

28 G. W. Hamilton, Attorney General of Washington: Apr. 1, 1936, Opinion No. 4086.

29 Cohen, *Handbook of Federal Indian Law,* p. 158.

30 "An Indian who has abandoned tribal relations and taken land in severalty separate and apart from his tribe thereby became a citizen of the United States and of this State." State Const. of South Dakota, Art. VII, Sec. 1, State v. Nimrod 30 S. D. 239, 138 N. W. 377.

31 Porter v. Hall, 34 Arizona, 308, 271 Pac. 411, 1928.

It should be noted, however, that wherever the vote has been refused to Indians it has been on the ground of his wardship relation to the Federal Government. The use of the term "Indians not taxed" is a quotation from the Constitution itself. It applies not to the lack of taxable property, which is a condition in which many people of other races may be found, but to the possession of property withheld from taxation, though such property would be taxed if owned by a non-Indian. The exclusion from voting of "Indians not taxed" therefore appears to be based less on the fact of Indianism than on the fact of non-taxability. It certainly stems from the idea that the peculiar relation of the Indian to the Federal Government, in its analogy to wardship, involves an equal peculiarity in his relationship to the State, which is forbidden to tax real estate or to take jurisdiction over his crimes, or his domestic relations.

The Arizona provision directly excluding from suffrage "persons under guardianship" illustrates well the segregating and isolating effect of the wardship relation. If the United States builds and maintains a Chinese Wall about those whom it designates as Indians, absolving them from responsibility to the States in which their reservations are located, the natural and almost inevitable result is that the State and its inhabitants regard that wall as a barrier to equal intercourse. In North Carolina the band of Eastern Cherokees were accustomed to vote as citizens of the State, even before the war of the 1860's. Sixty years after that time or longer, the land of the Eastern Cherokee Band was withdrawn from the taxation to which it had long been liable, and placed under the trusteeship of the Secretary of the Interior. The inevitable result was that the privilege of voting was withdrawn.

The law of North Carolina requiring that a prospective voter be able to read and write "to the satisfaction of the election registrar,"[32] there appeared before a board in the vicinity of the reservation a young member of the Band who was a college graduate, possessing a Master's degree from the University of North Carolina. He offered to prove his literacy to the judges.

"You couldn't read or write to my satisfaction," one of them told him, "if you were to stay here all day." In relieving the Band of land taxation and deepening its wardship status, the Federal Government had equally injured its status among the people among whom their lot was cast.

32 A provision of the state election law of North Carolina reads as follows: "A person desiring to register must be able to read and write any section of the Constitution in the English language and must show to the satisfaction of the registrar his ability to read and write any section when he appears and before he is entitled to registration." (State Const., Art. II, Sec. 4, Subsection D.

LAW AND ORDER

In the early days of Indian decisions, the tribes were well apart from the organized regions of white settlement. Obviously they managed their internal affairs after their own customs, which differed from one tribe to another. But as the course of white inundation went on across the continent, more and more these tribes, their roaming grounds curtailed, became dwellers on reservations, under the eye of white men, and often in contact with white communities. The matter of crimes committed upon these reservations became a matter of which the Federal Government was at length forced to take cognizance. It was in 1885 that a law[33] was passed, giving the Federal courts jurisdiction over seven major crimes committed on Indian reservations. The seven were murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny. By statute in 1909 assault with a deadly weapon was added to this list; in 1932, incest and robbery. Matters of lesser import than these were to fall under the tribal courts, if any existed.

The General Allotment Act provided that the Indian, upon receiving his allotment, should become a citizen of the United States and of the State in which he lived, and subject to its laws, both civil and criminal.[34] Shortly after allotment began, however, an amendment was made, one of whose features was the striking out of the provision for State citizenship and obedience to State law.[35] Thereafter allotted or unallotted, the Indian was thus absolved from any responsibility to State laws while maintaining his residence among his fellow-tribesmen.

On the other hand, it was held in more than one decision that the Indian had the right to bring civil suit in either State or Federal courts, even before he had become a citizen. He could invoke the law in his own behalf but a substantial body of it could not be invoked against him in a case of transgression.

For Indians for whom allotment has all but eliminated reservation boundaries and contact with white people and white communities is the every day condition of life, there exists a sort of twilight zone of amenability to law; where tribal courts do not exist, federal courts are without specific jurisdiction, and local courts, assuming that Indians are wards, fail to exercise such jurisdiction as they might possess. States, for example, like Wisconsin and

33 Act of 1885, 23 Stat. 362.

34 Section 6, Act of Feb. 8, 1887, (24 Stat. 388) reads as follows: "That upon the completion of said allotment and the patenting of the lands to said allottees, each and every member of the respective bands of tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside, and no territory shall pass or enforce any law denying any such Indians within its jurisdiction the equal protection of the law."

35 Act of Feb. 28, 1891, 26 Stat. 794.

Minnesota, have a considerable number of citizens of some degree of Indian blood and a former connection with an Indian tribe. Where these people reside as individuals or families in the white towns and cities, they are presumably amenable to local laws. But if they are congregated in a group thought of as "Indian," the matter of law enforcement among them is usually disregarded. The attitude of local authority would be, perhaps, "They don't pay taxes, so why waste county money enforcing laws among them?" or "It's the business of the Federal Government to look after Indians." The unenforced statutes are chiefly, of course, those of a domestic nature—marriage and divorce laws, laws of quarantine and sanitation, compulsory school laws, and the like.

Since the passage of the "Reorganization Act" there have been many additions to the list of tribal courts among Indian groups all over the land. But these courts profess to re-organize after the fashion of tribal custom rather than according to the white man's law. So we get such rulings as the circular of 1934, by which the Secretary of the Interior advised the Hopi Indians that they were not called upon to obey the State laws concerning marriage and divorce.[36] Today, after nine years of official disregard of State law, when Hopi men in considerable numbers are being enrolled in the armed forces of their country, they are finding it difficult to establish proof of their family relationships in order to get allowances for dependent wives and children.

Specific legal authority for these tribal courts has never been enacted by Congress. They are justified by the general principles of law as pertaining to "domestic dependent nations." The most effective statement of this principle was given in 1916 in the case of U. S. v. Quiver[37] in these words: "The policy reflected by the legislation of Congress and its administration for many years is that the relations of the Indians among themselves are to be controlled by the customs and laws of the tribe, save when Congress expressly or clearly directs otherwise."

The committee, headed by Professor Ray A. Brown of Wisconsin, already mentioned, was unanimous in its recommendation that Indians should be held amenable to the marriage and divorce laws of their respective States. At present, the marital relations of the Indian seem to be handled in a manner that can only be characterized as haphazard. An Indian may make a legal marriage with bell, book, and candle; if he chooses to dissolve it by an "Indian custom" divorce, which consists merely in going off from the rejected spouse, the Indian Service will recognize this as legal,

36 Circular issued Nov. 9, 1934, by the Commissioner of Indian Affairs and approved by the Acting Secretary of the Interior, Nov. 17, 1934.

37 241, U. S. 602.

and the offspring of subsequent unions as legitimate, at least for the purpose of determining heirship. Or an "Indian Custom" or mutual consent marriage of many years' standing may be terminated and a legal marriage entered into with a different partner. Viewing this situation, Professor Brown and his committee made the definite recommendation that special Indian courts "should not have jurisdiction to grant divorces or annulments." (Hearings cited above, p. 343) But an "Indian custom" divorce can be had without even such formality as the recognition of a tribal court.[38]

There is a strangeness in the idea that many young people of only a fractional amount of Indian blood, schooled in the language of the country and acquainted with its customs, should be permitted to flout those customs at will. These people know what the State law is; have learned also, that they do not need to obey it.

Professor Brown's committee made its studies in the tier of states running from Wisconsin west to the Pacific. Their conclusions as to the persistence of tribalism among these Indians is significant. The report said: "In the area covered by this study, the old Indian culture has almost disappeared. The old Indian form of government has gone, tribal authority has broken down, Indian custom and Indian laws are no longer effective. They can not be restored because the economic basis upon which they rested has been largely destroyed. For these Indians the only way ahead is gradual absorption into or adjustment to the dominant white civilization.

"The task of helping these Indians to become adjusted is educational. In the matter of law and order, the lesson they have to learn is to know, respect, and observe the laws of the State in which they reside that relate to crimes and misdemeanors, and to marriage and divorce." (Hearings, p. 345)

INDIAN LAND AND PROPERTY

A brief summary of the land-wardship situation has already been given. Some of the ways in which Indian lands are held may be mentioned:

1. Unallotted reservations (See EXHIBIT G: *Unallotted Reservations*) in which the title is held by the government in trust for the tribe as a whole. The great Navajo Reservation is the largest of these; its nature as desert land makes the plan of individual allotment difficult if not impossible. Rich timber reserves have been a factor in the failure to allot in severalty such lands as those of the Menominee in Wisconsin and the Red Lake Chippewa in Minnesota. The unallotted land of the Pueblo Indians in New

38 For more recent tribal court procedure see Law and Order Regulations for Indian Offenses, approved by Secretary of the Interior, Nov. 27, 1935.

Mexico, and the groups of Iroquois in New York afford peculiar legal problems which have prevented official severalization. Here, as in the case of the Eastern Cherokee in North Carolina, and the small group of Sac and Fox in Iowa, who afford another instance of a title resumed by the government, the Indians themselves have worked out a system of individual land possession and use without the sanction of law. This group purchased out of their own fund 33 small tracts of land on which taxes are paid to the State. However, the jurisdiction over the band was ceded by the legislature of Iowa to the Federal Government in 1896.

2. *Reservations which are "open,"* as the ones described above are "closed." On an open reservation allotments have been made at some past date to individual Indians. These open reservations are the greater number and are to be found in all parts of the country. Their lands may fall into three categories: (a) Lands, allotted, patented in fee by the Indians, and so now on the list of non-restricted, taxable property; (b) lands allotted, held under trust patent; and (c) lands still unallotted, either reserved for public uses, or held originally for future allotment (future allotment being now forbidden by the Act of 1934). This unallotted portion may amount to very little, as with the Oneidas in Wisconsin, merely the site of an office or school or church; or it may comprise a wide acreage, as in the case of the Jicarilla Apache in New Mexico, who have individual allotments in the northern part of their reservation and another large territory to the south which is held in trust for the tribe as a whole.

3. *Lands purchased for the Indians by the Indian Bureau* to which no title has yet been issued, either to the tribe or individual. Such lands are the village sites and often the rancherias set up in the farther West for the residence of groups of Indians hitherto homeless; also tracts of land purchased under recent laws for the estate of different tribes, but still held in government ownership.

With the exception of lands to which patent in fee has been issued, all this real estate is untaxable. It is estimated that the government holds in trust for those Indians still under its charge an average of two hundred acres per individual. This acreage, however, is by no means evenly distributed. Nor is it of equal worth. There are sections where a ten-acre tract would be of more value, either as capital or for productive use, than a thousand acres in another part of the country.

This land held by the government is in most cases administered not only without taxation, but also without expense of either effort or money for administration. (See EXHIBIT H: *Evils of*

Leasing System.) With the exception of a few instances in which the expenses of tribal services have been met from the tribes' own great resources of mineral wealth or other bounties of nature, the general public is taxed to handle the Indian's property as a rental agent. (See EXHIBIT B: *Use of Tribal Funds.*)

TREATY PROVISIONS

Besides this landed property there are financial and other interests arising out of the provisions of 389 treaties made with Indian groups up to 1871, when treaty-making was discontinued. Most of these treaties have, of course, long been completely fulfilled and bear no relation to matters of the present day. Others are still in force after more than a century. (See EXHIBIT A: *In Fulfillment of Treaties.*) The descendants of the New York Tribes, for example, still receive an annual distribution of a yard or two of calico or its equivalent, in accordance with a provision of a treaty made with the Confederation in 1784, and reaffirmed with the United States after the adoption of the Constitution in 1794.[39] In the case of the Oneidas, who removed from New York to Wisconsin a century ago, the distribution of a check for a few cents involves the keeping up of a roll and the mailing of checks to some two or three thousand people scattered all over the United States.[40]

Efforts have been made to secure the commutation of this Iroquois treaty, by giving to the tribe a capital sum which would produce in interest the amount distributed yearly, but this has been opposed by the Indians, who cling to the idea that the existence and fulfillment of this old treaty is continued proof that they are a distinct and separate nation. In spite of the fact that they are entitled to vote in their respective States and exercise that right freely, they maintain they are really of another nation, even to the extent of a separate declaration of war in the present conflict.[41] The retention of this annual payment is an example of the outlawing of provisions by the march of events, like the still enforced provision in the treaty with the Pawnees which provides a salary for a blacksmith whose duty shall be the repair of the Pawnee guns for hunting.[42]

The question which is in doubt is as to the "wardship" of Indians having no legal demand upon the Indian Bureau except, perhaps, the provisions of a treaty under which they have interest in some tribal property. The Minnesota Chippewas are an example. With the exception of the Red Lake group, they were allotted in

39 Article 6, Treaty of Nov. 11, 1794.
40 See *Oneidas of Wisconsin* by G. E. E. Lindquist.
41 See *Indians at Work* for May-June, 1942, pp. 17-19.
42 Treaty of Sept. 24, 1857.

accordance with the provision of a law of 1889,[43] under which a large sum of money was paid the tribe for surplus lands sold the government. That money has stayed at interest in the Treasury of the United States, and practically every year a small amount of money as interest is paid out to each Chippewa as the agreement provides. Periodically, too, the Chippewas bring pressure to bear upon their representatives in Congress to have a "per capita payment" of fifty or a hundred dollars made to them from the capital sum. The law provided that fifty years after allotment the whole sum would be distributed; but so far no attempt has been made to carry out this provision. There are many examples of Minnesota Chippewas who live in other States, who have no land under government guardianship, who obey the laws of the region where they live and take part in its elections, and all that. Their sole connection with the Indian Bureau consists in this small yearly check. What kind of "wardship" this constitutes it would be difficult to define.

In such cases as these it is often true that good sense and good faith require the commutation of the treaty today as much as they required its fulfillment generations ago. That the ministrations of a special government bureau should be needed for so able a citizen as Dr. Arthur C. Parker[44] was certainly not in contemplation by the parties to the treaties of 1784 and 1794. Nor is the supervisor, Mark Burns,[45] to mention one of hundreds of Chippewas, active in Minnseota life, the type of person for whom government administration of his funds is required.

WARDSHIP AND EDUCATION[46]

The long history of Indian education cannot here be reviewed. Originally a missionary endeavor, it was taken over by the Federal Government in large measure in the course of the last century. Separate Indian schools were made necessary in the first instance by the distance of the Indian from white schools, and his linguistic or other lacks, making it impossible for him to fit into the public system. These reasons for segregation are no longer applicable in the majority of cases. The trend toward the use of public schools for Indian children began a half century ago and continued vigorously until a few years since. About half the Indian children of school age are in the public schools of the regions in which they live. The segregating impulse of recent developments began

43 Act of Jan. 14, 1889—25 Stat. 645.

44 Director of Museum of Arts and Sciences, Rochester, N. Y.

45 Area Co-ordinator, U. S. Indian Service, Minneapolis, Minnesota.

46 Total appropriated for educational services during the fiscal year ended June 30, 1940, amounted to $8,682,764. Not many decades ago a similar amount represented the total annual expenditures for the entire Indian Bureau.

with the pressing of contracts to accept Federal money for Indian pupils upon schools which had previously taken such pupils without special payment.[47] While this was justified on the ground that it made better provision for the needs of the pupils possible, it was unquestionably a strong influence in setting the Indian child apart from his fellows and creating racial differences and prejudices which might otherwise have been permitted to lapse.

This was followed by a distinct effort to replace public schools by federally operated institutions. A number of instances might be cited in which public schools whose pupils were largely Indian, with the parents of the children serving upon the school board after the manner of any rural community, have been changed to Bureau-managed schools. The lines of wardship are thus drawn more closely about the young Indian citizen.

The matter of educational loans has also been a means of intensifying the dependence of the Indian. A modest provision for such loans was made in the general appropriation bill until the time of the passage of the Wheeler-Howard Act (The Reorganization Act) in 1934. This new act included a much larger appropriation and its use was at first limited to members of those tribes which accepted the plan of "reorganization."

Under these abundant appropriations of latter days, many young people of some proportion of Indian blood are receiving loans for the purpose of attending colleges and trade schools of various sorts. In order that the loan may be repaid upon graduation, the usual course is to provide the young graduate with a position in the Indian Bureau, where he is granted a special preference under Civil Service rules, on the ground of his race.[48]

In still another matter the guardianship of the government has been extended. In 1897, Congress declared it to be the policy of the government to make no appropriation for the education of

47 For example, on the Potawatomi Reservation in Kansas the contract for the sale of the Government Day School buildings to the district provided that children of restricted (or ward) Indians living in the district might attend these schools free of tuition. In spite of this the Agency Superintendent in his Annual Report for 1931 writes: "Last year for the first time some tuition was paid (by the Government) for Indian children attending public schools in Brown County and this year a very considerable amount will be paid in both Brown and Jackson Counties." (Extract from Survey of Potawatomi Subagency, Apr. 1931.)

48 A recent report indicates that 567 participated in these loans for that year, the amount being $109,545 of which $45,980 was spent on college education. Of the 567, 257 were males and 310 females. Of the recipients, the largest number come from the Five Civilized Tribes in Oklahoma—126; Kiowas are next with 29, with the Consolidated Chippewa a close third, 28. From the tabulation it would appear that the southwestern tribes are least desirous of educational loans, there being but one apiece from San Carlos, Apache, Papago, Colorado River Mojave, and the Uintah and Ouray; from the Navajos and Pueblos only 13 and 14, respectively. From July 1, 1935 to June 30, 1940, the total amount for these loans amounted to $467,766.68 of which $81,028.34 had been repaid, leaving an unpaid balance of $385,434.82. According to the Appropriation Act loans are to be repaid "in not to exceed eight years." (From Statistical Supplement to the Annual Report of the Commissioner of Indian Affairs for the fiscal year ended June 30, 1940, Table XXIII.)

Indian children in any school maintained by a religious sect. The matter was carried to the Supreme Court of the United States and in 1908 a decision was rendered[49] that this prohibition did not apply to treaty and trust funds belonging to an Indian tribe. Thereafter, a few schools were maintained out of such funds at the request of the Indians themselves.[50] Gratuity funds, however, were not used for sectarian schools, and the intent of the Congress was further emphasized by the enactment in 1917 of a law providing that "no appropriation out of the Treasury of the United States" should be used "for the education of Indian children in any sectarian school."[51]

In spite of the obvious intent of the lawmaking body, the Indian Bureau has in recent years made grants of money to various sectarian schools, justifying this action on the ground that it is providing not for the education of such children, but for their institutional care. (*Handbook,* p. 242) This by-passing of the Constitution and the courts violates the intent of the law beyond a question. Whether it can be technically defended is a matter which has not been presented for judicial opinion.

MEDICAL SERVICES

Another point made by those computing the enlarged number of Indians under the jurisdiction of the Indian Bureau of today relates to hospitals and sanatoria. A man may never claim any connection with his tribe or with Indians generally, they say; but he might nevertheless be considered eligible for care at a government hospital should be apply.[52] Such reasoning makes it virtually impossible for any person of Indian connection, however independent, to escape from being regarded as at least potentially a charge upon the government.

49 Quick Bear v. Leupp, 210 U. S. 50.

50 The following quotation written by Commissioner Leupp will further explain the status of contract schools following the law of 1897: "Several years after the enactment of the law putting an end to public appropriations for contracts with Mission schools, a question was raised whether this prohibition applied to tribal funds as well as Government money raised by taxation for public purposes. The Attorney-General gave his opinion that it did not. Accordingly President (Theodore) Roosevelt ordered that an Indian who was entitled to participate in a tribal fund should be permitted to contribute his share, or any part of it, toward the support of any Mission school he preferred. Two denominations, the Catholics and the Lutherans, took advantage of the order and presented petitions numerously signed by Indians interested in some particular school, asking for the diversion of so much of their respective shares as might be necessary to support and educate a certain number of children at that school. In order to test the right of the Executive to make such a diversion of trust funds, even on the petition of the wards, the Indian Rights Association brought suit in the names of sundry Indians of the Sioux Nation to enjoin the Government from entering into contract with the schools in their neighborhood. The case went to the Supreme Court of the United States, which decided against any restraining order, substantially confirming the administration's claim that the money belonged to the Indians and was properly subject to expenditure in the executive discretion for purposes promotive of their civilization—Francis E. Leupp, *The Indian and His Problem,* p. 297.

51 39 Stat. 969.

52 Indian Office Letter of August 5, 1941, to Mrs. Elaine Goodale Eastman.

As late as 1910, Francis E. Leupp, who served as Commissioner of Indian Affairs under President Theodore Roosevelt, pointed out hospitals as services which should properly be provided by other than Federal funds. In *The Indian and His Problem* (pp. 292-293) he wrote: "I have always encouraged the establishment of hospitals by private benevolence rather than by public appropriation. When set up by the Government, half their interest is lost. The Indian has had his moral perspective distorted so long by gratuitous favors from the Treasury that he is apt to look upon a Government hospital as he looks upon a Government ration house, mixing contempt with his appreciation of it."

Almost immediately, however, began the era of increased activity in matters concerning Indian health. The tuberculosis drive of thirty years ago may be considered as a sort of starting point for the expansion of medical services, the building of hospitals and sanatoria. During the '20s, two Secretaries of the Interior were themselves physicians (Drs. Hubert Work of Colorado, and Lyman Wilbur of California), and their interest in matters of physical welfare was mirrored in large appropriations, better equipped institutions, and higher standards of service.

Today there is generally available to one recognized as an Indian a degree of medical attention, of hospital care, of surgical service, which is frequently not at all available to the white citizen living in his vicinity. Moreover, he obtains without cost benefits which his white neighbor can obtain if at all, only at great expense, great distance and considerable difficulty.

With all this the Federal Government does not hold the Indian responsible to any regulations such as are enforced among other citizens to prevent the spread of infection. The State, of course, is without jurisdiction to enforce its rules of sanitation and quarantine. Indeed, the professed intention of fostering the ancient religions of the Indians often has a strong bearing on matters of health, since "religious" ceremonies often have to do with matters of healing, and the nature of the disease does not deter the native shamans from their endeavors. It is but a half dozen years or so since the hospitals, both government and mission, all over the great Navajo Reservation, were filled to capacity with patients suffering from diphtheria. The holding of a series of "sings" over a diphtheria patient, with the attendance of many others of the tribe at the service, proved effectual in spreading the disease far and wide. Enforcement of a quarantine might have confined the epidemic to a few cases.

Thus, medical services are available to the Indian without charge, in most cases, and with comparatively few safeguards in the matter

of sanitary regulations. Presumably this freedom from restriction is meant as a kindness; the effect may be far otherwise as the Navajo incident, cited above, illustrates.

Dr. James G. Townsend of the Public Health Service was for several years the first ranking medical officer of the Indian Bureau, in charge of its work at the many reservations and schools over the United States. In a paper read before a conference and published in 1942,[53] he says:

"The time should come when the federal government will curtail the present charitable medical service for Indians . . . To build up the Indians' self-reliance and individual independence, certain fees should be collected on the ability to pay."[54]

SOCIAL SERVICE AND SOCIAL SECURITY

Social service work has grown apace in the Indian Service of late. In some States this falls below the standards of that offered by the State to all its citizens; in others it is well above that standard. In such States as Wisconsin[55] and Minnesota for example, the Federal Government can scarcely duplicate for a small number of people what is done by the commonwealth for its people as a whole. Where such duplication exists, it is unnecessary and the segregation it creates does no service to the Indian.

Oklahoma as a State failed to assume the obligations to its Indian citizens which were promised at statehood (1908). Consequently, the Federal Government has stepped in and Indian recipients of relief are segregated from other citizens on the basis of a "benevolent paternalism."[56]

In some instances the wardship status of the Indian has tended to exclude him from the operation of the Social Security Act. In Arizona only 19 Indians are recipients of old age assistance according to the records of the Indian Bureau, although hundreds have made application and ordinarily should be included. The state authorities have ruled that since Indians living on a reservation are wards, under Federal guardianship, they should not share in benefits toward which the State contributes 50 per cent of the proceeds. In New Mexico no reservation Indians are entitled

53 *The Changing Indian,* edited by Oliver La Farge, from a symposium arranged by the American Association of Indian Affairs, Inc., University of Oklahoma Press, 1942; p. 41.

54 The amount of appropriations for 77 hospitals and sanitoria for the fiscal year ending June 30, 1943, amounts to $5,551,936.

55 "State appropriations for direct assistance to Indians of the state have been made at three different times. In 1925 and 1929 moneys were appropriated 'for public health work, particularly as it applied to Indians,' and in 1931 the sum of $13,000 was set aside for relief of the Chippewa Indians at La Pointe in Ashland County."—From: Relief to Indians in Wisconsin, issued by Public Welfare Department, April, 1937.

56 In this connection the "Report of Income to Indians, 1939," from the Rosebud Agency (which also includes for administrative purposes the Yankton Reservation) is illuminating: See EXHIBIT I.

to old age assistance on the grounds that they pay no taxes on real property.

In Mineral County, Nevada, Indians living on the Walker River Reservation were also excluded, the county commissioner alleging that they were "inmates of an institution" and hence not entitled to come under the provisions of the Act. However, the local missionary with the help of leading Indians circulated a petition among the white tax payers of the County and within a relatively short time, the commissioners reversed themselves and accepted the "Indian pensioners."

A few years ago an attempt was made to press legislation (originating in Arizona) to have all Indians come under the Indian Bureau for old age assistance. Fortunately, this failed of passage.

During the past fiscal year approximately $2,500,000 was expended for Indian beneficiaries through the operation of the Social Security Act. This amount, it should be noted, is not included under annual appropriations of the Department of the Interior. The benefits received include not only old age assistance but also aid to dependent children and aid to the blind.

WARDSHIP IN PUBLIC OPINION

The physical and material results of wardship have so far engaged our attention. But even more important are the effects of the mental attitudes created by the situation of dependence. Public feeling is influenced very largely by the fact that the Indian is a person legally segregated from his fellow citizens, sheltered by the guardianship of a Government Bureau.

Thus comes the tendency to exclude the Indian from the operation of laws and rules applying with reference to other citizens. We have seen the courts of the Lakes region unwilling to take up Indian cases because of the feeling that responsibility lies elsewhere. (The Brown Report on Law & Order, *op cit. supra.*) In Arizona and in New Mexico State officials argue against the extension of social insurance and old age pensions to Indians on the ground that this should be a Federal function.

Along with this prejudice goes a vast popular ignorance as to the actual facts. The general public often assumes that an Indian is amply supported by the nation; that rations are supplied at all times; that in spite of education and other benefits bestowed upon him the Indian always "goes back to the blanket" and remains an irreclaimable though picturesque savage.

On this latter point those self-styled "friends of the Indians" who regard him not as benefited, but as abused by Federal action present the obverse of the picture of popular ignorance and mis-

representation. These sentimentalists would restore and perpetuate the primitive ways of a life apart from civilization. They envision the Indian as living in an idyllic communal paradise untouched by the ways of the white race. They demand that the Indian don a Sioux war-bonnet, though his own ancestors may never have seen such an adornment; call himself Whirlwind or Raging Buffalo though his family may have borne the name of Jones or Jenkins for generations. For them, the Indian must be picturesque at any cost, even at the sacrifice of all truth and all development.

Of their demands upon the Indian, Dr. Ray Lyman Wilbur, Secretary of the Interior under President Hoover, has this to say, "Showmanship, e.g., commercialized dances and ceremonies, does not lead the Indian to establish himself on an even keel of self-respecting independence. It throws him back upon the masquerade of a manner of life that no longer exists and that can not exist in contact with the present civilization. The problem, simply stated, is this and nothing more: How shall the Indian be converted into a law-abiding, self-supporting member of society? and not, How shall tribal structure be preserved?"[56a]

"There is always a prejudice," writes Dr. Arthur C. Parker, of Seneca descent, "against those with special privileges and exemptions and against those who are fostered by paternalism." The continuance and encouragement of tribalism seem to him distinctly a "backward move" and to "place our first Americans in segregated areas like the bears, buffaloes, and elks of our national parks," in his opinion tends "to create a zoological garden rather than to serve the purposes of free citizenship."

Thus speaks an Indian of distinction and achievement; and what of the effect of perpetual wardship upon the average Indian? Can he be otherwise than affected by the demand that he remain forever a child of the Stone Age? He would be something beyond human if he did not take the exemptions offered him, even when they work to his disadvantage. He would be impervious to human influence if he did not imbibe from the sentimentalist the impression of himself as an imaginary Last of the Mohicans instead of a young person of the mid-twentieth century. Regrettable enough, but all too true are the

PSYCHOLOGICAL EFFECTS OF WARDSHIP

"Jim, where do you get all this?" one Pawnee inquired of another who was furnishing material for a volume of ethnological research.

[56a] Quoted in "Must the Wild Indian Go?" *Literary Digest*, p. 24, Sept. 7, 1929.

"Oh," Jim responded with a twinkle in his eye, "I give them what they want."

Frequently what the white observer wants is a show, and the Indian gives it to him. Responsibility for his own acts is less often required and less often given.

The dwelling upon real or fancied claims, the expectation of future enrichment based on some loss in the distant past, is a drag upon any race. The Indian is no exception to this rule. "We are not beggars," said a Sioux recently, "the government has not yet paid us what it owes us." The feeling that he must be recompensed on the theory that his great grandparents owned all the territory which they ranged, hunting the buffalo and fighting with other tribes, persists to keep him expectant of future enrichment. Meanwhile, rich in a nursed grievance and an expectation, he is less eager to carve out his own future than would be one not so endowed. Such a claim, if valid in the first instance, would in the case of any other citizen have been long ago outlawed by time. But the Indian has had a long schooling in the idea that he must be repaid for the buffalo his grandfather did not kill.

Indeed he has been encouraged to think that he must still emulate his own grandfather. From the time when one tribe after another seized upon the gun and the horse and found their whole lives transformed by them, Indians have in reality been ready to adapt themselves to changing circumstances. The idea of halting his modern adaptations and imprisoning him in his yesterday's culture is futility itself.

Segregation, years of special treatment, have tended to create racial psychosis that will not persist if the light of common sense is turned upon it. The Indian would not continue his parroting of the sentimentalist tale of Indian wrongs if he realized that he is arraying one-eighth of his ancestry to accuse the other seven-eighths. No wonder H. L. Shapiro of the American Museum of Natural History finds in this persistence of the fiction of Indianism in one who has lost the actual biological status "a somewhat Gilbert and Sullivan aspect."[57]

A more logical attitude is that of Lee Harkins, a Choctaw-Chickasaw, whose work on the Tulsa Tribune is not adversely affected by the fact that his grandfather lived by hunting the buffalo. "To pine for the old," he says in an article in the Rotary Magazine,[58] "is a mark of weakness." He points out that the Indian, defending himself against his enemies, had "no one to protect him from his oversentimental friends."

57 *The Changing Indian,* edited by Oliver La Farge, from a symposium arranged by the American Association of Indian Affairs, Inc., University of Oklahoma Press, 1942; p. 26.

58 "Shall the Indian be kept Indian?", p. 62, May, 1938.

"Let us escape from the reservations," he concludes. "Not all at once, of course. Despite all its shortcomings, the Government's policy has been gradual assimilation of the Indians into the civilization that surrounds them. But for the moment, that trend is reversed—and it is against nature and the Indian's welfare. Let us instead be assimilated. Let us be one of you."

This plea of an educated, thinking Indian finds its counterpart in the judgment of Mr. Shapiro.[59]

"It seems to me, therefore, that in seeking to solve the problem of the Indian, we are only intensifying it. Instead of encouraging the process of assimilation, we are artificially and deliberately impeding such a desirable comsummation."

NEXT STEPS

The very analogy of the Indians to persons under guardianship suggests a limitation to their pupilage, since the utmost term of disability of an infant is but twenty-one years, and it is rare that the relations of guardian and ward, under any circumstances, even those of lunacy, are maintained for a longer period than this.

So declared the United States Supreme Court, in the case of Felix v. Patrick,[60] more than a half century ago; but in spite of this pronouncement, the condition of wardship persists and is handed down from one generation to another, in later years so intensified that the Indian Bureau officially holds that an affirmative act of Congress would be necessary to relieve an Indian of his peculiar relationship to itself. Wardship which no act of the individual can terminate carries with it the implication of hopeless, remediless inferiority.

Mrs. Elaine Goodale Eastman, in a recent article in the New York Call, sums up the situation, after discussing the inability of the Indian to handle his own property and the denial in some states of the franchise. "Segregated schools under federal management, arbitrary exemption from taxation and many state laws, and the needless duplication of many social services to which all citizens are entitled add to the oppressive paternalism visited upon this small group of a possible third of a million individuals." In Mrs. Eastman's considered judgment, informed by many years of deep interest in matters Indian, this problem is one "which has been so nearly taken care of by the lapse of time and the forces of nature that the attempt to maintain it artificially by the means of special laws is nothing less than inexcusable."

Obviously no single sweeping enactment will wipe away in a

59 *The Changing Indian,* edited by Oliver La Farge, from a symposium arranged by the American Association of Indian Affairs, Inc., University of Oklahoma Press, 1942; p.27.
60 145 U. S. 347.

moment the tangled tissue of exemptions and restrictions that has grown up through a century and a half. Old treaties have to be speeded up by commutation or otherwise; land problems must be worked out tribe by tribe, often individual by individual. But some first steps toward the goal of normal citizenship for the Indian can and should be taken.

1. The Indian should be made amenable to state law. By far the greater number of Indians are ready for this step, and would benefit greatly by the advanced prestige which it would bring them among their white neighbors. A very simply worded statute would be sufficient to bring about this change.

2. Education in the public schools should be the rule wherever available. Government schools should be open only to those to whom attendance upon a public school is impossible. A simple provision to that effect in the next appropriation bill would establish this practice. Meanwhile, it would be salutary for mission schools to adopt the practice of providing their facilities for those unable to attend public schools.

3. Medical services should be paid for whenever the Indian is financially able to do so. Only those actually indigent should be taken care of in government hospitals without charge. This can be handled by administrative action, but a proviso in the appropriation act would confirm it.

4. Land management should be made a charge against an Indian estate. This too can be done administratively or by legislative proviso.

5. Social services rendered all citizens should be extended to include Indian citizens, and appropriations for doing this on a special racial basis should be eliminated from the Indian appropriation bill. In the same manner agricultural services of the Department of Agriculture, county agents and the like, should be extended to Indians.[61]

These steps would suffice to make a beginning. They would be a start toward the goal of Indian equality before the law with other citizens. They should provide an impetus toward the emergence of the present generation of Indian-Americans from what Mrs. Eastman characterizes as "the clumsy and outgrown bureau and reservation system."

[61] See also EXHIBIT J, *Interior Committee's Report on the Meriam Survey of 1927.*

A BRIEF SUMMARY

I. *What Is an Indian?*

Congress has up to this point failed to give a definition and the word is used for many whose portion of Indian blood is very small, and even for a considerable number having no such blood whatever.

II. *What Is Wardship?*

The conception of wardship is both vague and all-inclusive. It may be summed up as the relation of the Indian to the Federal Government in matters in which the average citizen deals with the State or local government or acts on his own initiative.

III. *Growth of Indian Wardship*

Wardship has grown up over our entire colonial and national history through a vast number of treaties, laws, and appropriations.

IV. *Wardship and Citizenship*

All Indians are citizens, but it has been judicially decided that citizenship and wardship may exist together.

V. *Citizenship and Suffrage*

The mere fact of citizenship does not make one a voter. Hence, we find some Indians admitted to the franchise, and others excluded.

VI. *Law and Order*

The Indian citizen in many cases is not held amenable to State laws. He is responsible to the Federal courts for several major crimes, but in less serious matters, practice is conflicting, and a twilight zone of vague responsibility exists.

VII. *Indian Land and Property*

Much land owned by Indians, both individually and in tribes, is exempt from local taxation. Much is handled by the Government as a rental agent for the Indian.

VIII. *Treaty Provisions*

Many Indians no longer have much connection with the Government except through periodic disbursement of funds under some old treaty. Commutation of such treaties is desirable.

IX. *Wardship and Education*

The growing use of public schools has been checked in recent practice, but it should be continued if the Indian is to take the normal place in American life.

x. *Medical Services*

Indians are, generally speaking, given medical and hospital service of a high type. Where they are financially able, a charge should be made.

xi. *Social Services*

The Federal services, especially for Indians, tend to bring about their exclusion from the services given people generally. There is no justification for this segregation.

xii. *Wardship in Public Opinion*

The segregation and exemption of the Indian is in large measure responsible for both foolishly sentimental attitudes and prejudices against the race.

xiii. *Psychological Effects of Wardship*

Upon the Indian himself, the result is a dependency complex, an expectation of benefits, based on an attitude of grievance and complaints.

xiv. *Next Steps*

As a first step in bringing the Indian into a normal relationship with his fellows, he should be made amenable to State law.

EXHIBITS

Under the heading of *Exhibits* will be found additional data covering among others, such topics as fulfillment of treaties, tribal funds, population figures and trends, evils of leasing system, as well as a listing of tribes and reservations which, under one pretext or another, have more recently entered into a wardship status.

Exhibit A

IN FULFILLMENT OF TREATIES

There is a record of 389 treaties made with the Indian, and incorporated in the statutes of the United States from 1778 to 1871. The provisions of many of these have, of course, long since been fulfilled in one form or another. However, in current appropriation acts for the Department of the Interior, under which the Indian Bureau operates, there is mention of the "fulfillment of treaties." For instance, the annual Appropriation Act for the fiscal year ending June 30, 1943, (Pub. 645-77th Cong. H. R. 6845) carries under certain headings items which accrue from treaty provisions. One of these is entitled "Annuities and Per Capita Payments" and reads, in part, as follows (p. 28):

> For fulfilling treaties with Senecas of New York: For permanent annuity in lieu of interest on stock (Act of February 19, 1831, 4 Stat. 442), $6,000.
>
> For fulfilling treaties with Six Nations of New York: For permanent annuity in clothing and other useful articles (article 6, treaty of November 11, 1794), $4,500.
>
> For fulfilling treaties with Choctaws, Oklahoma: For permanent annuity (article 2, treaty of November 16, 1805, and article 13, treaty of June 22, 1855), $3,000.
>
> For permanent annuity for support of light horsemen (article 13, treaty of October 18, 1820, and article 13, treaty of June 22, 1855), $600.00.
>
> For permanent annuity for support of blacksmith (article 6, treaty of October 18, 1820, and article 9, treaty of January 20, 1825, and article 13, treaty of June 22, 1855), $600.00; for permanent annuity for education (article 2, treaty of January 20, 1825, and article 13, treaty of June 22, 1855), $6,000.00; for permanent annuity for iron and steel (article 9, treaty of January 20, 1825, and article 13, treaty of June 22, 1855), $320.00; in all, $10,520.00.
>
> For fulfilling treaties with Pawnees, Oklahoma: For permanent annuity (article 2, treaty of September 24, 1857, and article 3, agreement of November 23, 1892), $30,000.00.
>
> For payment of Sioux benefits to Indians of the Sioux reserva-

tions, as authorized by the Act of March 2, 1889, (25 Stat. 895), as amended, $200,000.00.

For payment of interest on moneys held in trust for the several Indian tribes as authorized by various Acts of Congress, $725,000.00.

Under "general support and administration" the following item occurs (p. 22):

For general administration of Indian property, including pay of employees authorized by continuing or permanent treaty provisions, $2,620,870.

No attempt has been made to secure the total appropriation for any given fiscal year "in fulfillment of treaties."

Apparently no study has ever been made to determine which treaties are still in effect and which are not, which are "continuing" and which "permanent." Without doubt, some such study is called for, as it would reveal which may be considered "dead," which are partly obsolete, and which are still in effect, as, for instance, those listed in the current Appropriation Act, referred to above. However, there are provisions in old treaties which still give certain Indian tribes hunting and fishing rights. These "rights" have recently been upheld in connection with the Indians' use of ancient fishing grounds on the Columbia River near Celilo, Oregon.[62]

It is of interest to note that certain tribes have treaty agreements whereby so many pounds of flour are ground for their benefit annually. For example, the Crows in Montana may get 1500 pounds ground per family without cost to them.

Exhibit B

TRIBAL FUNDS

Tribal funds accrue from various sources as, for example, sale of lands, timber, mineral resources, income from grazing and agricultural leases, etc. In the Annual Appropriation Act for the fiscal year, ending June 30, 1943, the following items are noted:[63]

Indian Lands

Purchase of land for the Navajo Indians, Arizona, New Mexico, and Utah: For the purchase of land, or interests therein and improvements thereon, within the Navajo Indian Reservation in Arizona, New Mexico, and Utah, $40,000.00.

62 Treaty of Wasco in 1855; the case of Samson Tulee v. State of Washington.

63 Not all the details and provisos as given in the original Act (pp. 9-26) are incorporated herewith; for example, in a number of instances sums previously appropriated but not spent are often continued available for the same purposes until expended.

Leasing of lands for Navajo Indians: For lease, pending purchase, of land and water rights for the use and benefit of Indians of the Navajo Tribe in Arizona and New Mexico, $20,000.00 payable from funds on deposit to the credit of the Navajo Tribe.

Purchase of land, Confederated Bands of Utes, Utah: The unexpended balances of the amounts authorized to be expended by the Interior Department Appropriations Act for the fiscal year 1941 for the purchase of additional lands and improvements for the Confederated Bands of Utes in Utah, are hereby continued available for the same purposes until expended.

Purchase of land for the Indians of the Round Valley Reservation, California: The unexpended balance of the appropriation of $10,000, contained in the Interior Department Appropriation Act, 1941, for the purchase of land and improvements thereon for the Indians of the Round Valley Reservation, California, payable from funds on deposit to the credit of said Indians is hereby continued available until expended.

Purchase of land for the Indians of the Colville Reservation, Washington: The unexpended balance of the appropriation of $100,000 contained in the Third Deficiency Appropriation Act, fiscal year 1939, for the purchase of land and improvements thereon for the Colville Indians, Washington, payable from funds on deposit to the credit of said Indians, is hereby continued available until expended.

Purchase of land, Flathead Indians, Montana: For the purchase of land, and improvements thereon for the Indians of the Flathead Reservation, Montana, $25,000 payable from funds on deposit to the credit of said Indians.

For the purchase of land and improvements thereon for the Indians of the Omaha Reservation, Nebraska, $1,700, payable from funds on deposit to the credit of said Indians.

Purchase of land, Spokane Indians, Washington: The unexpended balance of the appropriation of $30,000, contained in the Interior Department Appropriation Act, 1941, for the purchase of Indian-owned and privately owned lands, improvements on lands, or any interest in lands including water rights for Indians of the Spokane Reservation, Washington, payable from any funds on deposit to the credit of the Indians of said reservation is hereby continued available until expended.

Industrial Assistance

For advances to individual members of the tribes for the construction of homes and for the purchase of seed, animals, machinery, tools, implements, building material, and other equipment and

supplies; and for advances to old, disabled, or indigent Indians for their support and burial, and Indians having irrigable allotments to assist them in the development and cultivation thereof, to be immediately available, $137,000, payable from tribal funds as follows: Flathead, Montana, $35,000; Navajo, Arizona and New Mexico, $50,000; Fort Berthold, North Dakota, $48,000; Spokane, Washington, $4,000; and the unexpended balances of funds available under this head in the Interior Department Appropriation Act for the fiscal year 1942, are hereby continued available during the fiscal year 1943, for the purposes for which they were appropriated.

Education

Support of Indian Schools from Tribal Funds: For the support of Indian Schools and for other educational purposes, including care of Indian children of school age attending public schools and private schools, tuition and other assistance for Indian pupils attending public schools, and support and education of deaf and dumb or blind, physically handicapped, delinquent, or mentally deficient Indian children, there may be expended from Indian tribal funds and from school revenues arising under the Act of May 17, 1926 (25, U. S. C. 155), not more than $334,375, including not to exceed $44,375 for payment of tuition for Chippewa Indian children enrolled in public schools and care of children of school age attending private schools in the State of Minnesota, payable from the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the Act of January 14, 1889 (25 Stat. 645).

Osage Nation, Oklahoma (tribal funds): For the education of unallotted Osage Indian children in the Saint Louis Mission Boarding School, Oklahoma, $1,500, payable from funds held in trust by the United States for the Osage Tribe.

General Support and Administration

For general support of Indians and administration of Indian property under the jurisdiction of the following agencies, to be paid from the funds held by the United States in trust for the respective tribes, in not to exceed the following sums, respectively:

Arizona: Fort Apache, $60,000; Navajo, $4,900, including all necessary expenses of holding a tribal fair, erection of structures, awards for exhibits and events, feeding of livestock, and labor and materials; Pima (Camp McDowell), $360; San Carlos, $4,240; Truxton Canon, $13,000; in all, $82,500.

California: Mission, $26,000.

Colorado: The unexpended balance of the appropriations under this head (Southern Ute and Ute Mountain) for the fiscal year 1942, including the purchase of land, the subjugation thereof, and the construction of improvements thereon is hereby continued available until June 30, 1943, for the purposes hereof.

Idaho: Fort Hall, $1,200; Northern Idaho (Nez Perce), $200, including the purchase of land, title to which shall be taken in the name of the United States in trust for the Nez Perce Indians.

Iowa: Sac and Fox, $630.

Minnesota: Consolidated Chippewa, $1,600 for salary and incidental expenses of the secretary of the tribal executive committee;

Montana: Flathead, $24,000.

Nevada: Western Shoshone, $2,000.

North Carolina: Cherokee, including the construction of a community building, $10,000.

Oregon: Klamath, $118,975, of which not to exceed $4,500 shall be available for fees and expenses of an attorney or firm of attorneys selected by the tribe and employed under a contract approved by the Secretary of the Interior.

Utah: Uintah and Ouray, $11,000, of which amount not to exceed $4,000 shall be available for the payment of an agent employed under a contract approved by the Secretary of the Interior.

Washington: Colville, $5,400; Puyallup, $1,300 for upkeep of the Puyallup Indian Cemetary; Taholah (Makah), $6,600, including the purchase of land, title to which shall be taken in the name of the United States in trust for the Makah Indians; Yakima, $1,300 (Yakima, $300; Lummi, $1,000 including the purchase of land, title to which shall be taken in the name of the United States in trust for the Lummi Indians); Tulalip, $5,000; in all $19,000.

Wisconsin: Keshena, $83,725, including $25,000 of which not exceeding $5,000 shall be available for general relief purposes and not exceeding $20,000 for monthly allowances, under such rules and regulations as the Secretary of the Interior may prescribe, to old and indigent members of the Menominee Tribe who reside with relatives or friends and $5,200 for the compensation and expenses of an attorney or firm of attorneys employed by the tribe under a contract approved by the Secretary of the Interior. In all of the above, not to exceed $381,430.

Relief of Chippewa Indians in Minnesota: Not to exceed $49,375 of the principal sum on deposit to the credit of the Chippewa Indians of Minnesota, arising under section 7 of the Act entitled

"An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January 14, 1889 (25 Stat. 645), may be expended, in the discretion of the Secretary of the Interior, in aiding indigent Chippewa Indians including boarding home care of pupils attending public, private, or high schools.

Relief of needy Indians: For the relief of Indians in need of assistance, including cash grants; the purchase of subsistence supplies, clothing, and household goods; medical, burial, housing, transportation, and all other necessary expenses, $100,000, payable from funds on deposit to the credit of the particular tribe concerned.

Expenses of tribal officers: Five Civilized Tribes, Oklahoma: For the current fiscal year money may be expended from the tribal funds of the Choctaw, Chickasaw, Creek, and Seminole Tribes for equalization of allotments, per capita, and other payments authorized by law to individual members of the respective tribes, salaries, and contingent expenses of the governor of the Chickasaw Nation and chief of the Choctaw Nation, one mining trustee for the Choctaw and Chickasaw Nations, at salaries of $3,000 each for said governor, said chief, and said mining trustee, chief of the Creek Nation at $600 and one attorney each for the Choctaw, and Chickasaw Tribes employed under contract approved by the President under existing law: Provided, That the expenses of the above-named officials shall be determined and limited by the Commissioner of Indian Affairs at not to exceed $2,500 each.

Support of Osage Agency and pay of tribal officers, Oklahoma, $188,670.

Expenses of tribal councils or committees thereof, $25,000.

Compensation and expenses of attorneys, Makah Reservation, Washington, $1,700.

Northern Cheyenne Tribe, Tongue River Reservation, Montana, $600. Confederated Salish and Kootenai Tribes, Montana, (Flathead Reservation, Montana) $5,600.

For compromise settlement of a claim an amount $2,500 payable from funds on deposit to the credit of the Choctaw and Chickasaw Tribes of Indians.[64]

[64] In the statistical supplement to the annual report of the Commissioner of Indian Affairs for the fiscal year ended June 30, 1940 the total appropriations for Trust funds (including tribal and Indian Moneys Proceeds of Labor) amounted to $2,854,440.

DECLARATION OF POLICY

"The time has come for discontinuing guardianship of all competent Indians and giving even closer attention to the incompetent that they may more speedily achieve competency. Pursuant to this policy, the following rules shall be observed:

"1. *Patents in Fee:* To all able-bodied adult Indians of less than one-half Indian blood, there will be given as far as may be under the law full and complete control of all their property. Patents in fee shall be issued to all adult Indians of one-half or more Indian blood who may, after careful investigation, be found competent, provided, that where deemed advisable patents in fee shall be withheld for not to exceed 40 acres as a home.

"Indian students, when they are twenty-one years of age, or over, who complete the full course of instruction in the Government schools, receive diplomas and have demonstrated competency will be so declared.

"2. *Sale of Lands:* A liberal ruling will be adopted in the matter of passing upon applications for sale of inherited Indian lands where the applicants retain other lands and the proceeds are to be used to improve the homesteads or for other equally good purposes. A more liberal ruling than has hitherto prevailed will hereafter be followed with regard to the applications of non-competent Indians for the sale of their lands where they are old and feeble and need the proceeds for their support.

"3. *Certification of Competency:* The rules which are made to apply in the granting of patents in fee and the sale of lands will be made equally applicable in the matter of issuing certificates of competency.

"4. *Individual Indian Moneys:* Indians will be given unrestricted control of all their individual Indian moneys upon issuance of patents in fee or certificate of competency. Strict limitations will not be placed upon the use of funds of the old, the indigent, and the invalid.

"5. *Pro Rata Shares-Trust Funds:* As speedily as possible their pro-rata shares in tribal trust or other funds shall be paid to all Indians who have been declared competent, unless the legal status of such funds prevents. Where practicable the pro rata shares of incompetent Indians will be withdrawn from the Treasury and placed in banks to their individual credit.

"6. *Elimination of Ineligible Pupils From the Government Indian Schools:* In many of our boarding schools Indian children are

being educated at Government expense, whose parents are amply able to pay for their education and have public school facilities at or near their homes. Such children shall not hereafter be enrolled in Government Indian Schools supported by gratuity appropriations, except on payment of actual per capita cost and transportation.

"These rules are hereby made effective, and all Indian Bureau administrative officers at Washington and in the field will be governed accordingly."[65]

Exhibit D

SOME MISLEADING POPULATION FIGURES

In the statistical supplement to the annual report of the Commissioner of Indian Affairs for the fiscal year ended June 30, 1940, there are a number of tables giving a summary of data on population and other items. Those cited below are from Tables Numbers I and III.

It is to be noted that the Indian population figure under Indian Affairs as of January 1, 1940, is given as 394,280. However, Alaska with 32,464 Indians is included. Under the Five Civilized Tribes in Oklahoma 77,700 are listed although not more than 27,924 are claimed as being under the Five Tribes Agency at Muskogee, Oklahoma, according to available records.[66] Consequently 62,700 are fully assimilated into the warp and woof of American life. Perhaps the only tie-up with the Federal Indian Bureau in many instances is the fact that tuition is or might be paid to rural school districts in Oklahoma for those of one fourth or more degree of Indian blood.

California is credited with having 23,281 Indians, with the Mission Agency at Riverside listing 7,017. However, the "estimate of unenrolled Indians" under that jurisdiction is given as 4,000. This means that not over 3,000 are under the agency (with a relatively large number non-resident) and the other 4,000 may be considered "Indians on paper." Moreover, the Sacramento Agency is stated as having 11,854 Indians, with an "estimate of 10,294 unenrolled." Obviously then, there are less than 1,600 under that Agency.

How the mixing of blood has gone forward in Northern California is brought out in the following report on the Hoopa schools:

"Of 205 enrolled pupils in the schools during the year 1935-36,

65 From "Declaration of Policy," promulgated by Hon. Cato Sells, Commissioner of Indian Affairs, April 17, 1917 and approved by Hon. Franklin K. Lane, Secretary of the Interior.

66 Five Civilized Tribes of Oklahoma Report to Secretary of the Interior, June 30, 1931, by G. E. E. Lindquist.

thirty-six were full-blood Indians, twenty-nine were full-blood whites and the remaining 140 ranged from one-eighth to seven-eighths Indian blood; certainly amalgamation has been swift and sure. No additional thoughts relative to the social significance of this item are essential to this paper; the writer is firmly convinced, after spending three years in close contact with these various mixtures, that the *amount* of Indian or white blood makes little difference in the boy or girl—it is the *quality* of each of the bloods that are mixed, tempered by environmental conditions, that makes the individual worthwhile or vice-versa. At the present time, there are about seven hundred residents of the reservation of whom about six hundred are classified as Indian, that is, of one-fourth Indian blood or more."[67]

In the statistical enumeration already referred to, Michigan has 4,704 Indians, of which 3,000 are listed as unenrolled.

Of those enrolled under the former Isabella Reservation (434) an investigator of the Indian Bureau[68] writes as follows: "The tribal organization of these Indians was dissolved by the treaty of 1855 except so far as it was necessary to carry out the provisions of the treaty—Nevertheless, the Chippewas of the Isabella Reservation have organized and incorporated under the Indian Reorganization Act." Commenting further on this, the same investigator says: "Any classification of the Indians of Michigan on the basis of blood quantum would be practically impossible and comparatively valueless under the conditions which have developed during the past century. . . The Indians of lower Michigan in no sense of the word constitute a separate group and any attempt to deal with them as such would be detrimental both to Indians and whites, and very probably disastrous to the Indians. Certainly the Indian Bureau should refrain from any attempt to deal with any of the Indians of Michigan as a separate group." (ibid.)

Oregon is another state where there are hundreds of "paper Indians." The Grand Ronde-Siletz Agency is credited with 1,782 but included in that number are 810 who owe no allegiance to the Federal Government, having been "on their own" for several generations. In a study made of the Indians of Western Oregon by an Indian Service investigator in 1941 the following paragraphs are noted:

"The Agency, first at Chemawa and now for the past three years at Salem has maintained a census of the reservation based on the annuity roll closed in 1921. The census is merely copied every

67 From Report of Hoopa Valley Unified School District by Robert U. Ricklefs, Principal, Oct. 15, 1936.

68 *A Survey of Indian Groups in the State of Michigan, 1939,* by John H. Holst, p. 15.

three years with the names of deceased omitted and of births added. Such purports to be a census of the reservation yet it enumerates scores of names of those who have been away from the reservation for years and many of whom have long since established homes elsewhere. Many of them have an imperceptible degree of Indian blood."

"After carefully checking with the allotment roll and other records as well as the present census in the Salem Office, I am herewith submitting a reduced list of those who appear to have more claim to appear on a census if such is deemed advisable. But I believe that the official recognition of any form of census or roll of Public Domain Indians would be more detrimental than valuable to them, and at the same time an expensive cluttering of official records implying federal obligations which do not exist, while provoking uncertainty in state and local agencies. The list is submitted for information rather than approval."

"There are no Indian tribes recognized as such in Oregon west of the Cascade range; therefore, there are no tribal rolls."[69]

Washington likewise has an estimate of "500 unenrolled" Indians, presumably scattered and allotted on the public domain.

In North Carolina there are 3,472 Indians listed under the Eastern Cherokee Agency. Here again fully half are non-residents. About 1200 are not recognized by the Cherokees themselves as having any right in the band.[70]

Exhibit E

REASSUMPTION OF WARDSHIP

By reassumption of Wardship is meant the extension and development of Federal jurisdiction over tribes or tribal bands who at one time or another were released from Federal supervision or who had never been recognized officially as Government wards.

Included in this category would be tribes and bands who through acceptance of the Indian Reorganization Act of 1934 have once more assumed a status of wardship under the Bureau. Sections 16 and 18 of the Act were interpreted by the Bureau officials as giving "outside Indians" the right to come under its provisions if they so desired "when ratified by a majority vote of the adult members of the tribe." Moreover, since all elections had to be held "within one year after the passage and approval of the Act" (Sec.

69 The Indians of Western Oregon and the Grande Ronde-Siletz Agency by John H. Holst, May 10, 1941, pp. 13 and 15.

70 *Red Carolinians* by Chapman J. Milling, p. 376.

18), considerable pressure was brought to bear on tribal groups to get under the date line. (See EXHIBIT F.) Furthermore, the Secretary of the Interior, according to Section 7 of the Act, was authorized "to proclaim new Indian reservations on lands" purchased under its provisions.

Accordingly certain small groups in California, mostly rancherias, who had in the main assumed a nominal relationship to the Sacramento or other Agencies, voted to come under the Act. There are 32 listed (Exhibit F), none having a population over 140 and some with less than 5.

In a recent survey of California Indians[71] the "conclusion is that the Indians of California are being rapidly acculturated rather than being assimilated and that although they are adapting themselves to white life, particularly in their economy, they are nevertheless preserving themselves in the rancherias as separate social groups, and retaining part of their traditional life." Hence they must needs submit to "a realistic program of economic and social rehabilitation." This in spite of the thesis developed by a recent superintendent of the Sacramento Agency, who states:

"The only goal I am interested in for California Indians is to merge them into the social and economic life of the prevailing civilization as developed by the whites."[72]

The same superintendent states in another connection:[73]

"Wardship and full manhood stature do not go together. Every tribal vestige has disappeared in this jurisdiction. White blood is diluting the Indian; white ideas dominate his every thought; he drives a car; he speaks English; he is educated in the public schools of the State; he votes. I, for one, have sufficient faith in the California Indian to believe that, being put upon his own responsibility (with continued guardianship only of real property), he will, within a decade, take his place as an average citizen of a state whose civilization and social institutions are far above the American average.

"My program is definitely to liquidate the U. S. Indian Service in California within ten years."

The groups listed under Michigan include the following: L'Anse (pop. 1,116), Bay Mills (pop. 190) and Isabella (pop. 848). Attention is herewith called to the recommendation of an Indian Bureau investigator as recently as 1939.[74] "I believe we must con-

71 *Human Dependency and Economic Survey* by Allan G. Harper, director, TC-BIA-1939.

72 *One Man's Personal and Unofficial View of the California Indian Situation* by Roy Nash, Supt. Sacramento Indian Agency, an address to the Western Regional Conference of the National Fellowship of Indian Workers, August, 1940.

73 Narrative Report for the fiscal years 1936 and 1937, pp. 48-49.

74 *A Survey of Indian Groups in the State of Michigan,* 1939, by John H. Holst, p. 21.

clude that the Indians of Lower Michigan have entered into full citizenship and have been so accepted by the State in all of its relations with them; that these Indians neither need nor ask help, special favors, or gratuity from the Federal Government; that such help or subsidy tends to weaken the ties of that citizenship they have attained and which they prize, and that it tends to subject them to the scorn of those who have accepted them as equals; that special Federal laws governing Indians should give way to State laws which govern other citizens under similar conditions; and above all, we must conclude that so far as Lower Michigan is concerned, trust held land, with its implications of Federal wardship, is a menace to Indian welfare and progress, both in its effect upon Indians and in its effect upon other citizens and civic agencies that resent class privileges and prohibitions."

Besides those already mentioned, there are a number of groups in Minnesota who for years have sustained no direct relationship with the Federal Indian Bureau, but who have been taken over by the operation of the Reorganization Act. Such groups are the Lower Sioux at Granite Falls and Prairie Island (pop. 552) as well as large numbers of the mixed-blood Chippewas under the Consolidated Chippewa Agency at Cass Lake (pop. 8,059).

In South Dakota a group of Santee Sioux (pop. 345) at Flandreau, once known as "homestead Indians," but now designated "reservation Indians" since coming under the Reorganization Act, present the following background:

"An interesting experiment in citizenship was made by twenty-five families of Santees in 1869, when they left the agency to take homesteads and become citizens. The location selected was on the Big Sioux River, near the present site of Flandreau, South Dakota. The following year they were joined by thirty-five more families. Some of the homesteads were never proved upon; others were sold. Today some families still remain but the majority have left."[75]

Mention should be made also of the Wisconsin Oneidas, whose Agency was officially closed in 1919. Practically their only relationship to the Federal Government until coming under the 1934 Act was the annuity payments in fulfillment of the old treaty of 1794. Of the population figures listed as 3,128 fully one-half reside away from the former reservation near Green Bay. The Stockbridge Indians (est. 600) long ago severed their wardship relations with the Government, only to reassume same under the aegis of the Reorganization Act. Today their children are enrolled in a segregated Indian Day School although ample public school facilities are available, within relatively short distance.

75 G. E. E. Lindquist in *The Red Man in the U. S.*, p. 211.

Exhibit F

INDIAN RESERVATIONS UNDER THE I.R.A.† BY VOTE OF THE INDIANS IN ACCORDANCE WITH SECTION 18 OF THE ACT*

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
ARIZONA			
Colorado River	Colorado River	Chemeheuvi	
		Mojave	705
	Fort Mojave	Mojave	432
	Cocopah		32
Fort Apache	Fort Apache	Apache	2,718
Paiute (Utah)	Kaibab	Paiute	93
Phoenix	Camp Verde	Yavapai-Apache	451
Pima	Fort McDowell	Mohave-Apache	205
	Gila River	Pima-Maricopa	4,659
	Salt River	Pima	1,049
	Ak Chin		179
San Carlos	San Carlos	Apache	2,843
Sells	Gila Bend	Papago	228
	San Xavier	Papago	525
	Papago	Papago	5,146
Truxton Canon	Havasupai	Havasupai	201
	Truxton Canon		451
Hopi	Hopi	Hopi	2,538
CALIFORNIA			
Hoopa Valley	Trinidad	Trinidad	4
	Crescent City		16
	Blue Lake		
Colorado River (Ariz.)	Fort Yuma	Apache	819
Mission	Capitan Grande	Capitan Grande	
	inc. Barona	Barona	160
	Cuyapaipe	Cuyapaipe	
	Laguna		3
	La Posta	La Posta	3
	Manzanita		67
	San Pascual		9
	Santa Ynez		90
Sacramento	Alexander Valley		28
	Alturas		26
	Big Bend		
	Big Valley		92
	Cache Creek		30
	Buena Vista		4
	Cedarville (No residents)		
	Cloverdale		40
	Colusa		72
	Colfax (No residents)		

† I.R.A. is the abbreviation for the Indian Reorganization Act.

* Document No. 12237, issued by the Office of Indian Affairs, Department of the Interior. NOTE: It should be noted that no Oklahoma tribes are listed berewith as they were declared exempt from certain sections of the Reorganization Act of 1934; Alaskan Indians were included under sections 9, 10, 11, 12 and 16 but not under section 18 whicb called for the special elections. Hence they are not included in this summary.

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
Sacramento (*continued*)			
	Cortina		40
	Coyote Valley		16
	East Lake (Robinson)		46
	Fort Bidwell		180
	Guideville		54
	Grindstone		50
	Hopland		112
	Jackson		3
	Likely		60
	Lookout		24
	Lytton (No residents)		
	Manchester		92
	Middletown		26
	Millerton (No residents)		
	Montgomery Creek		14
	Nevada City		36
	Paskenta		52
	Pinoleville		102
	Potter Valley		52
	Redwood Valley		36
	Rumsay		22
	Santa Rose		
	Sebastopal (No residents)		
	Sheep Ranch		1
	Stewart's Point		140
	Sulphur Banks		40
	Susanville		18
	Strathmore (No residents)		
	Taylorville		4
	Tuolumne		80
	Tule River		188
	Upper Lake		72
	Wilton		28
	Round Valley	Covelo	827
COLORADO			
Con. Ute	Southern Ute	Ute	389
	Ute Mountain	Ute	445
FLORIDA			
Seminole	Seminole	Seminole	580
IDAHO			
Coeur d'Alene	Kalispel	Kalispel	88
		Cree	
Fort Hall	Fort Hall	Shoshone-Bannock	1,839
IOWA			
Sac and Fox	Sac and Fox	Sac and Fox	419
KANSAS			
Potawatomi	Potawatomi	Potawatomi	955
	Sac and Fox	Sac and Fox	99
	Kickapoo	Kickapoo	308
	Iowa	Iowa	498

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
MINNESOTA			
Con. Chippewa	White Earth	Chippewa (Minn.)	8,059
	Leech Lake	" "	2,076
	Fond du Lac	" "	1,298
	Bois Fort	" "	627
	Grand Portage	" "	377
Red Lake	Red Lake		1,968
Pipestone	Pipestone	Lower Sioux Granite Falls Prairie Island	552
MICHIGAN			
Great Lakes (Wis.)	L'Anse		1,116
	Bay Mills		190
	Isabella		848
	Hannahville		108
	Ontonagon		
MISSISSIPPI			
Choctaw	Choctaw	Choctaw	1,792
	Chetimaha (La.)	Chetimaha	70
MONTANA			
Blackfeet	Blackfeet	Blackfeet	3,962
Flathead	Flathead	Conf. Salish & Kootenai	2,964
Fort Belknap	Fort Belknap	Assiniboine Gros Ventre	1,367
Rocky Boy's	Rocky Boy's	Chippewa Cree	676
Tongue River	Tongue River	Cheyenne	1,541
NEBRASKA			
Winnebago	Winnebago	Winnebago	1,187
	Ponca	Ponca	392
	Omaha	Omaha	1,642
	Santee	Santee	1,277
NEVADA			
Carson	Fort McDermitt		273
	Pyramid Lake		549
	Summit Lake		64
	Reno-Sparks		190
	Dresslerville	Washoe	150
	Lovelock		90
	Winnemucca		50
	Battle Mountain		30
	Elko		80
	Ely		70
	Indian Ranch		20
	Walker River		492
	Yerington	Paiute	102
Paiute (Utah)	Moapa River		158
	Las Vegas Tract		40
West Shoshone	Duck Valley	Shoshone-Paiute	516

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
NEW MEXICO			
Mescalero	Mescalero	Apache	722
Jicarilla	Jicarilla	Apache	703
United Pueblos	Nambe	Pueblo	128
	Picuris	"	117
	Pojoaque	"	9
	San Ildefonso	"	126
	Santa Clara	"	400
	San Juan	"	561
	Taos	"	745
	Tesuque	"	123
	Acomo	"	1,125
	Cochiti	"	305
	Isleta	"	1,103
	Laguna	"	2,271
	Sandia	"	129
	San Felipe	"	596
	Santa Ana	"	241
	Santa Domingo	"	866
	Sia	"	189
	Zuni	"	2,051
NEW YORK			
New York	Cornplanter (Pa.)		80
NORTH CAROLINA			
Cherokee	Cherokee	Eastern Cherokee	3,254
NORTH DAKOTA			
Fort Berthold	Fort Berthold	Arikara, Gros Ventre, Mandan	1,569
Standing Rock	Standing Rock (N. Dak.) (S. Dak.)	Sioux	3,775
OREGON			
Salem	Grand Ronde	Grand Ronde	356
Warm Springs	Warm Springs		992
	Burns		134
SOUTH DAKOTA			
Cheyenne River	Cheyenne River	Sioux	3,288
Crow Creek	Lower Brule	Sioux	603
Flandreau	Flandreau	Santee Sioux	345
Pine Ridge	Pine Ridge	Oglala Sioux	8,370
Rosebud	Rosebud	Sioux	6,362
Rosebud	Yankton	Sioux	2,018
TEXAS			
Kiowa (Okla.)	Ala. & Coushatta		300
UTAH			
Paiute	Goshute	Goshute	155
	Cedar City	Paiute	28
	Gandy	Paiute	6

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
Paiute (*continued*)			
	Kanosh	Paiute & Ute	24
	Koosharen	Ute	30
	Las Vegas		40
	Paiute	Paiute	19
	Shivwitz	Shivwitz	79
	Skull Valley	Goshute	41
Uintah & Ouray	Uintah & Ouray	Ute	1,251
Fort Hall (Idaho)	Washakie		137
WASHINGTON			
Taholah	Makah		403
	Nisqually		63
	Ozette		2
	Quinaielt		1,729
	Hoh		4
	Quileute		242
	Skokomish		189
	Squaxin Island	Squaxin	39
Tulalip	Muckleshoot	Muckleshoot	200
	Port Madison	Suquamish	171
	Puyallup	Puyallup	328
	Swinomish	Swinomish	273
	Tulalip	Tulalip	663
	Nooksak		235
	Skagit-Suiattle		205
WISCONSIN			
Great Lakes	Bad River	Chippewa	1,211
	Lac Courte Oreille	"	1,559
	Red Cliff	"	506
	Potawatomi	"	388
	Lac du Flambeau	Lac du Flambeau	853
Keshena	Menominee	Menominee	2,077
	Oneida		3,128
	Stockbridge		600
	Total Estimated Population Fiscal Year 1935		129,750

INDIAN RESERVATIONS NOT UNDER THE I. R. A.
BY VOTE OF THE INDIANS

ARIZONA			
Navajo (Ariz. and N. Mex.)	Navajo	Navajo	43,135
CALIFORNIA			
Hoopa Valley	Hoopa Valley	Hoopa	554
	Klamath River	Klamath	925
	Smith River	Smith River	82
	Hohneville		18
	Table Bluff		52
Carson (Nev.)	Big Pine		22
	Bishop		186

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
Carson (Nev.)	(*continued*)		
	Fallon		426
	Ft. Independence		100
	Red Hill		40
	West Bishop		30
Mission	Augustine	Mission	14
	Cabezon	"	29
	Cahuilla	"	107
	Campo	"	135
	Inaja	"	33
	La Jolla	"	221
	Los Coyotes	"	88
	Mesa Grande	"	218
	Pala	"	205
	Mission Creek	"	20
	Morongo	"	292
	Palm Springs	"	50
	Pauma	"	69
	Pechanga	"	216
	Rincon	"	181
	San Manuel	"	40
	Santa Rosa	"	50
	Santa Ysabel	"	237
	Soboba	"	122
	Sycuan	"	35
	Torres Martinez	"	198
Sacramento	Auburn		72
	Berry Creek		98
	Big Sandy		76
	Cold Springs		94
	Dry Creek		98
	Enterprise		58
	Jamestown		10
	Laytonville		58
	Mooretown		86
	Northfork		12
	Picayune		22
	Pitt River		4
	Redding		
	Scotts Valley		34
	Sherwood		70
	Shingle Springs		6
	Strawberry Valley		20
	Table Mountain		32
IDAHO			
Coeur d'Alene	Coeur d'Alene	Coeur d'Alene	634
	Nez Perce	Nez Perce	1,399
MONTANA			
Crow	Crow	Crow	2,082
Fort Peck	Fort Peck	Assiniboine and Sioux	2,663

Agency or School	*Reservation or Rancheria*	*Tribe*	*Total Population (Estimated)*
NEW MEXICO			
United Pueblos	Jemez		677
NEW YORK			
New York	Allegany		1,096
	Cattaraugus		1,728
	Onondago		700
	St. Regis		1,600
	Tonawanda		676
	Tuscarora		450
	Oneida		214
NORTH DAKOTA			
Fort Totten	Fort Totten	Sioux	960
Turtle Mountain	Turtle Mountain	Chippewa	6,034
OREGON			
Klamath	Klamath	Klamath	1,364
Umatilla	Umatilla	Umatilla	1,140
Salem	Siletz		465
SOUTH DAKOTA			
Crow Creek	Crow Creek	Sioux	953
Sisseton	Sisseton	Sioux	2,658
WASHINGTON			
Colville	Colville	Colville	3,118
	Spokane	Spokane	807
Taholah	Chehalis	Chehalis	140
	Shoalwater		22
Tulalip	Lummi		667
Yakima	Yakima	Yakima	2,942
WYOMING			
Shoshone	Shoshone	Arapaho and Shoshone	2,196
	Total Estimated Population Fiscal Year 1935		86,365

Exhibit G

UNALLOTTED RESERVATIONS

While the blanket character of the Dawes Act of 1887 provided for the allotment of virtually all land, regardless of character, whether agricultural, timber, or grazing, it should be noted that an appreciable number of Reservations were not allotted at all and have so remained to the present day.

There is given herewith, the following list:

Tribe or Agency	*State*	*Acreage of Tribally Owned Land*
Eastern Cherokee	N. Carolina	56,849
Chemehuevi	California	28,000
Cocopah	Arizona	360
Ft. Mojave	Arizona	27,592
Ute Mountain	Colorado & N. Mexico	496,440
Fort Apache	Arizona	1,664,872
Potawatomi	Wisconsin	11,200
Hopi	Arizona	501,471
Keshena (Menominee)	Wisconsin	231,690
Mescaero Apache	New Mexico	474,506
Navajo	N. M., Ariz., Utah	14,968,212
Ft. MacDowell (Apache)	Arizona	24,680
Maricopa	Arizona	21,840
Red Lake (Chippewa)	Minnesota	406,086
Rocky Boys' Band	Montana	88,837
Sac and Fox	Iowa (Taxable)	3,253
Tule River	California	49,000
San Carlos Apache	Arizona	1,610,118
Kaibab	Arizona	119,758
Shivwitz	Arizona	28,160
Pueblos (including Zuni)	New Mexico	1,312,665
Pyramid Lake (Paiute and Shoshone)	Nevada	475,140
	TOTAL	22,600,729

NOTE: The above table based on *Statistical Supplement* already referred to.

The above enumeration does not include the rancherias of California, nor the colony sites in Nevada, as in many instances these lands are government owned. Moreover, the land recently acquired under the terms of the Reorganization Act is not listed above as such lands are held in trust by the U. S. Government and cannot be classified as tribally owned. Furthermore, there are some 45 agencies which have been partly allotted, there remaining a considerable acreage of land still held tribally.

It is of interest to quote in this connection from an *Information Service* news-release of the Office of Indian Affairs, June 15, 1942: "The fact that typically Indian lands were not stolen or confiscated, as is popularly supposed, but legally purchased by the Federal Government is the foundation of present Indian Administration, according to the Handbook of Federal Indian Law, today made available for general circulation, through the U. S. Government Printing Office." This official statement is all the more enlightening in view of previous news-releases, issuing from the same office of Indian Affairs in 1934-35 when the Indian was cited as "landless, homeless, and hopeless" because of the land-grabbing whites who had robbed him of his ancient heritage.

EVILS OF LEASING SYSTEM

That the leasing system proved to be the bane of the allotment policy has long been recognized. This leasing was done, in the main, by the officers of the Government, for the Indian was not yet an owner of the complete title to his land, which was held in trust, according to the law, for a period of 25 years. As already indicated in another section, the practice of leasing lands (largely to whites) was implemented by legislation, the first law being passed in 1891; further changes were made in 1894, 1897, 1900 and 1910.

Commissioner Jones in 1900 issued the following diatribe against what he termed "this pernicious practice":

"To the thoughtful mind it is apparent that the effect of the general leasing of allotments is bad. Like the gratuitous issue of rations and the periodical distribution of money, it fosters indolence with its train of attendant vices. By taking away the incentive to labor, it defeats the very object for which the allotment system was devised, which was, by giving the Indian something tangible that he could call his own, to incite him to personal effort in his own behalf."[76]

The disadvantages of leasing, apparent in 1900, are no less apparent today.

In the statistical supplement to the annual report of the Commissioner of Indian Affairs for the fiscal year ended June 30, 1940, there is a table devoted to "Lands under the Jurisdiction of the Office of Indian Affairs by Tenure and Use" which gives some rather interesting albeit startling figures.

Of the total acreage reported (55,406,412 acres) 17,573,936 are trust allotted, 36,046,660 tribal, while 1,785,816 acres are government owned. Presumably the latter figure includes the lands purchased under the operation of the Indian Reorganization Act. Thus it is estimated that there is an average of approximately 200 acres for every Indian in the United States.

When it comes to land use, some disquieting figures, illustrating the evils of present day leasing are revealed. On the Crow Reservation in Montana 1,764,968 acres are "used by non-Indians" (that is, leased to whites) while only 182,497 acres are used by Indians. In other words, 9 acres are leased, to every one used, by Indians. A somewhat similar situation obtains on the Blackfeet Reservation, Montana, where 1,069,262 acres are leased and 160,080 used by Indians.

76 Annual Report of Com. of Indian Affairs, 1900, by Hon. William H. Jones.

Some other reservations, together with acreage involved, are listed herewith:

Reservation and State	*Indians*	*Non-Indians*
Cheyenne and Arapaho (Okla.)	17,388	165,384
Crow Creek (S. Dak.)	53,083	170,681
Fort Belknap (Mont.)	110,525	361,384
Kiowa (Okla.)	43,535	434,083
Klamath (Ore.)	354,820	627,210
Osage (Okla.)	78,784	348,441
Pine Ridge (S. Dak.)	541,221	940,183
Rosebud (S. Dak.)	320,634	651,353
Wind River (Wyo.)	884,998	1,027,754
Winnebago (Neb.)	20,339	45,584
Yakima (Wash.)	395,163	617,593

The above figures would seem to indicate that the Indian field service, especially in the areas indicated, is giving a disproportionately large share of time and money to the business of land-leasing. Thus the leasing system tends to prolong wardship. Furthermore, the relatively large number of Bureau employees who must give full time to this service is a constant drain on the U. S. Treasury representing a not inconsiderable sum in the total of "$45,243,277.00 expended and obligated for the fiscal year 1940."

Exhibit I

REPORT OF INCOME TO INDIANS, 1939

Rosebud & Yankton Reservation, South Dakota

Source	*Total Amount*
Farm Security Administration Grants	$ 79,675.00
Standard Loans—Feed and Seed	(None)
Commodities—Food	26,835.00
Commodities—Clothing	2,753.00
Works Progress Administration	15,561.00
Mother's Pension	290.00
Old Age Assistance } Social Security	38,414.00
Aid to Needy Blind } Social Security	1,708.00
National Youth Administration	2,332.00
Pensions (Military)	21,042.00
	$188,610.00
Education—Food and Clothing	26,811.00
	$215,421.00

1. *Farm Security Administration Grants*

Names of Counties	No. of Cases	Total Amount
Tripp	60	$ 6,672.00
Todd	284	30,904.00
Mellette	144	13,524.00
Gregory	46	3,763.00
Charles Mix	161	24,812.00
TOTALS	695	$79,675.00

2. *Standard Loans—Feed and Seed*

None

3. *Commodities*

	Food	Clothing
Tripp	$ 2,320.00	$ 159.00
Todd	13,575.00	1,510.00
Mellette	5,984.00	376.00
Gregory	141.00	42.00
Charles Mix	4,815.00	666.00
TOTALS	$26,835.00	$2,753.00

4. *Works Progress Administration*

	Men	Women	Total Amount
Tripp	4	None	$ 1,758.00
Todd	None	7	3,184.00
Mellette	34	38	2,946.00
Gregory	2	1	1,479.00
Charles Mix	11	5	6,194.00
		TOTAL	$15,561.00

5. *Mother's Pension*

Tripp	(None)	
Todd		$250.00
Gregory	(None)	
Mellette	(None)	
Charles Mix		40.00
	TOTAL	$290.00

6. *Old Age Assistance*

	Men	Women	Total Amount
Tripp	11	7	$ 2,554.00
Todd	63	61	19,877.00
Gregory	5	4	1,318.00
Mellette	30	29	7,508.00
Charles Mix	25	24	7,157.00
		TOTAL	$38,414.00

7. *Aid to Needy Blind*

	Men	Women	Total Amount
Tripp	1	None	$ 62.00
Todd	4	None	554.00
Mellette	None	None	
Gregory	1	None	209.00
Charles Mix	3	None	883.00
		TOTAL	$ 1,708.00

8. *National Youth Administration*	*Boys*	*Girls*	*Total Amount*
Tripp	1	1	$ 114.00
Todd	28	31	724.00
Mellette	10	20	387.00
Gregory	None	4	500.00
Charles Mix	4	2	607.00
		TOTAL	$ 2,332.00

9. *Pensions—Military and Episcopal Church*	*Total Amount*
Rosebud	$20,001.00
Yankton	1,041.00
TOTAL	$21,042.00

10. *Education—Food and Clothing*	*Total Amount*
	$26,811.00

11. *Rations Issued—Yankton Only*	*No. of Recipients*	*No. of Rations Issued*
Work	62	125
Non-work	116	227

It is to be noted in the last item that rations are now issued to the Yanktons. Twenty years ago these people were the most prosperous and self-contained of all the Sioux, their agricultural land being quoted at from $100 to $150 an acre; their animal resources, consisting of horses, hogs, cattle and poultry were valued at $329,229. "Practically no poverty is in evidence." The last phrase told its own story.

Today a majority of the Yankton Sioux are impoverished and largely dependent on the Government, Federal and State, for support. However, it should be borne in mind that 30 per cent of the white farmers have given up and left this county (Charles Mix) in recent years due to a decade of drought and grasshoppers. Some of this white-owned land has been "bought up" by the Federal Government. An instance cited is that of a 1,600 acre farm with $25,000 of improvements being purchased for $10,000.[77]

Exhibit J

EXTRACT FROM INTERIOR COMMITTEE'S REPORT ON MERIAM SURVEY OF 1927

In 1927 the Institute for Government Research undertook a survey of Indian affairs with special reference to the field service. The report of this survey was published in 1928 under the title

[77] Extract from *Survey of the Dakotas* by Orville A. Petty and G. E. E. Lindquist, 1940.

of *The Problem of Indian Administration.* Since Lewis Meriam was the director, the report is generally referred to as the Meriam Survey of 1927. The then Secretary of the Interior, Hon. Hubert Work, requested a small committee of field superintendents to make an appraisal of the Survey, the closing paragraph of which is given herewith:

"It is the opinion of your committee that the time has arrived when some very definite plan should be made looking to actually severing the Government guardianship of many of the Indians and placing them upon their own full responsibility as citizens of the State. A great deal has been said for years about 'turning the Indian loose,' but indifferent progress has been made. This should be an individual matter. No tribe in its entirety would be ready for the step at the same time, but there should be a way by which an Indian who has had the educational opportunity and who should be placed entirely upon his own responsibility can be given whatever belongs to him of tribal estate and informed that he is no longer under the supervision of the Government nor has any voice in tribal matters; that being a full-fledged citizen, with the privileges and obligations of such citizenship, he need no longer look to the Federal Government for assistance. Additional legislation is necessary before this can be fully accomplished."[78]

[78] Report of Interior Department Committee on "The Problem of Indian Administration," Dec. 5, 1928.